



Digitized by the Internet Archive
in 2022 with funding from
University of Toronto

<https://archive.org/details/31761114671191>

CA20N
XC21
-P73

STANDING COMMITTEE ON PUBLIC ACCOUNTS

ALLEGED CONFLICT OF INTEREST

WEDNESDAY, JULY 2, 1986

Afternoon Sitting

Draft Transcript



STANDING COMMITTEE ON PUBLIC ACCOUNTS

CHAIRMAN: Runciman, R. W. (Leeds PC)

VICE-CHAIRMAN: Gillies, P. A. (Brantford PC)

Epp, H. A. (Waterloo North L)

Ferraro, R. E. (Wellington South L)

Gordon, J. K. (Sudbury PC)

Harris, M. D. (Nipissing PC)

Philip, E. T. (Etobicoke NDP)

Polsinelli, C. (Yorkview L)

Pope, A. W. (Cochrane South PC)

Smith, D. W. (Lambton L)

Wildman, B. (Algoma NDP)

Substitutions:

Guindon, L. B. (Cornwall PC) for Mr. Gordon

McGuigan, J. F. (Kent-Elgin L) for Mr. D. W. Smith

Ward, C. C. (Wentworth North L) for Mr. Ferraro

Clerk: Arnott, D.

Staff:

Fritz, H., Research Officer, Legislative Research Service

Bell, J., Counsel; with Shibley, Righton and McCutcheon

Peters, M., Associate Counsel; with Shibley, Righton and McCutcheon

Witnesses:

From Innovation Development for Employment Advancement Corp.:

Armstrong, S., Counsel

Blakeley, H., Former President

Logan, D., Former Vice-President, Innovation Assistance

Maruzzo, B., Former Senior Manager, Technical Assessment

Phillips, J. H., Counsel; with Blake, Cassels and Graydon

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON PUBLIC ACCOUNTS

Wednesday, July 2, 1986

The committee resumed at 4:09 p.m. in room 228.

ALLEGED CONFLICT OF INTEREST
(continued)

Mr. Chairman: Can we come to order please? Could Mssrs. Blakley, Logan and Maruzzo come forward please.

The first questioner on my list is Mr. Wildman. If members are in agreement, when Mr. Wildman does present himself, we will go back to him.

Mr. Pope: A statement was made by Mr. Macdonald this morning, as chairman of Innovation Development for Employment Advancement Corp. Our counsel examined Mr. Macdonald uniquely with respect to his involvement in the IDEA Corp.

If these gentlemen wish to say anything other than what Mr. Macdonald said, they should be given the opportunity. Second, counsel may want to have a whole new line of questioning--

Mr. Philip: I think counsel starts again.

Mr. Chairman: I think counsel would like that. If there are no objections? Agreed.

4:10 p.m.

Mr. Armstrong: There is just one procedural thing that came to my mind. We had a little discussion this morning about...

PI610 follows



Mr. Armstrong: ~~Just one procedural thing we had in mind. This morning we had a little discussion about~~ tab 9 venture summary. I would just like to clear any misunderstanding there might have been.

The venture summary was reviewed a representative of each party last week and sent back to the IDEA Corp. In viewing the documents yesterday we decided that there were only two dates that needed to be removed from that venture summary and, in fact, the ??positive shading was not meant to be taken out. Okay?

Page 4 is missing. That was removed this morning in the committee room at the request of Wyda, not at ours.

Mr. Bell: I can add I have page 4. It is to be received by this committee as and when committee meets to review the rest of this document in camera. The material that was in there was considered to be of the type that I described earlier. Rather than prolong that issue as per the committee's previous position, I took it in that way.

Mr. Chairman: Anything further, Mr. Armstrong?

Mr. Armstrong: No that is it, thank you.

Mr. Bell: Before we begin, can I deal with one or two administrative matters.

First, would Mr. Arnott distribute to committee members the March 21, 1986, document that is referred to in Mr. Macdonald's opening statement paragraph 12?

Before I ask Mr. Armstrong to comment further on the other undertakings that he and his clients gave this morning, when we broke for lunch, there was discussion at the end as to who the next witness or witnesses would be. I think it was mentioned that the Wyda people would be the next. I really prefer that Mary Eberts be the next witness after the IDEA people.

Remember that we are out of sequence already with the original format to accommodate Mr. Macdonald's schedule. If it had been my way, IDEA would have been interviewed sometime after Mary Eberts and others. I would like to get back, if we can, to that original format as quickly as possible.

In that regard, I have some concern as to how extensive I have to include the list of witnesses that are on standby to attend here on 30 minutes notice, that would apply to witnesses after Mary Eberts. I need a little guidance from the committee.

May I tell those persons that they are certainly not required this afternoon and that at the break at 6:30, I can tell any people after Mary Eberts whether it appears we will reach them this evening. I do not want to say any more than that right now because I am not aware of what progress we will make in the next two-and-a-half hours. In fairness to those people who do have other things to do, they should be given as much leeway as possible to order their affairs.

Mr. Epp: As I understand it then, the only person we would have standby would be Mary Eberts this afternoon and Wyda tonight.

Mr. Bell: Mary Eberts on standby this afternoon, definite tonight and depending on the progress this afternoon, we can advise those after Mary Eberts when.

Mr. Epp: Yes, that is fine with me.

Mr. Chairman: Any other comments?

Mr. Bell: In that regard I have a document to supplement the Mary Eberts' material which I would ask members to include in their brief under tab N for Norman right after tab 10. This one is labelled 10a and it is placed there because documents are ordered chronologically.

For record purposes, members, the March...

Plots follows



(Mr. Bell)

~~because the documents are ordered chronologically. For record purposes,~~
21 IDEA Corporation letter that you received just a few moments ago--you can just stick on the top right corner of that, for reference purposes, "tab L6". We will give you a "tab 6" so that you can include that in the appropriate place in your material. Thereafter I will refer to it as "document Tab L6."

Now, Mr. Armstrong, and to your clients, you will recall this morning I asked you to make inquiries over the noon hour to determine who the author of certain notations was, in your document Tab 23 at page 21, and particularly who made the notes and who made the markings in respect of the last sentence or that first paragraph. Do you have any further information as to what and who the source of that sentence, ?? "As for the directors' meeting is concerned" might be?

Mr. Armstrong: Yes, I will do what I can.

First, as Mr. Macdonald said these minutes are transcribed by a secretary named Lori, who is referred to on the right-hand side of the page. They are then distributed to Mr. Macdonald, Mr. Blakley and the appropriate vice-presidents who were present at the meeting. In this case it would have been Mr. Cannon because Mr. Logan was unable to attend.

As far as we are able to tell, the arrow on the last line was inserted by the secretary and went to Mr. Blakley with the clause with a ??fract around it and the arrow pointing up one line. As Mr. Blakley said this morning, this is his handwriting on the right-hand side of the page that says, "Lori, please discuss." It is Lori's handwriting above that says, "Harold, please review." It is also his handwriting on the left-hand side that says, "Not so."

As for the part at the bottom of that paragraph--the last few words--I cannot tell you at this time who crossed that out. It was done in pencil. We have checked the original. We have checked colours of ink. The difficulty is that Lori is no longer an employee of the IDEA Corporation and will not be back from her holiday until Monday, at which time we will discuss it with her and find out. She is also the one, incidentally, that would have typed up the minutes of the executive committee of June 27 that were also asked for, so we have not even draft minutes of that, from last Friday.

As for who, beyond what I have said, marked things out, I cannot say other than that. I can say though, that this discussion is basically in two parts. It begins at the bottom of page 20. You will notice there Mr. Blakley stated that IDEA has in its files a letter and an acknowledgement. Those are at tab 14 in the productions. I am sorry, tab 16 of the productions. They came out, as Mr. Macdonald said in his statement, during the preparation of the closing documents which were signed on April 12. The deal closed on April 18. The IDEA Corporation had a copy of those documents and Mr. Blakley would have read them.

4:20 p.m.

Furthermore, the letter of January 31, 1986 from Mr. Dobzinski to Mr. Caplan refers to Mr. Caplan as saying that Damaza Consultants Ltd. will assist and advise.

1620 follows.

(Mr. Armstrong)

~~Mr. Dobzinski to Mr. Caplan refers to Mr. Caplan as saying that Damaza Consultants Ltd. will assist and advise.~~ I think that is what is meant by Mr. Caplan being retained as an advisor, although as we have said all the documents that we have produced show him as being vice-president of finance, from the very first submission of your business plan in August 1985. Mr. Blakley would have known of course that Mr. Caplan was not a shareholder of the company because the venture summary says that Mr. Dobzinski was 100 per cent owner of the company. That, of course is in the venture summary as tab 9.

Incidentally it is also true, as the letter of January 31 says, that Mr. Caplan would not receive any monies in connection with any dealings with Ontario government ministries or agencies.

The second part of it says Mr. Blakley said that Wyda Systems (Canada) Ltd. discussed with IDEA Corporation three possible means of payment of fees to Mr. Caplan. Mr. Blakley said this morning he did not say that--in that the methods of payment were not discussed with IDEA--and he was simply referring to the press material which was given to the board members before this meeting. If you look under tab 22, I would say about halfway down, there is a photocopy of two articles from The Toronto Sun--a column by ??Laurie Goldstein--on the left-hand side--

Mr. Bell: What is the date of that?

Mr. Armstrong: I am just going to give you that. It is June 13, 1986.

Mr. Bell: Let us catch up to you now. June 13?

Mr. Armstrong: 1986.

Mr. Bell: Is that headed ?? "IDEA man's fee sword?"

Mr. Armstrong: That is right. Yes. You will notice in the second paragraph it says, "Wilf Caplan, husband of Management Board Chairman, Elinor Caplan, said yesterday that Wyda Systems President, Avi Dobzinski agreed to increase his monthly retainer from \$2,000 per month to \$8,000 in April." That is paragraph two.

You drop down to the middle of the column. Goldstein says--

Mr. Bell: Hold it now. Where are you referring to?

Mr. Armstrong: I have now dropped down to the middle of that same column which begins, "Wilf Caplan told me...."

Mr. Bell: Yes.

Mr. Armstrong: "....he requested the fee hike from Wyda after the IDEA deal was completed because he was starting up his own business." The passage that we have been talking about--

Mr. Philip: --business, I can go to somebody and get a bonus.

Mr. Armstrong: On tab 23, we have been talking about the deleting of the words, "To assist Mr. Caplan to start his own business," but that is the genesis of that. Mr. Blakley was discussing the press reports and that is there.

I would like to take you to another one which is two pages behind that one. It is a Globe and Mail article dated June 17, 1986, with a picture of Mrs. Caplan on the right-hand side. It says, "Caplan faces an inquiry."--in the middle of the page, if you look at the right-hand column, the first full paragraph. I would like to read it:

"Mrs. Caplan said that when her husband's consulting firm agreed to help Wyda find outside financing in May 1985"--

Mr. Bell: You are reading from the second--the part under, "Caplan faces an inquiry"?

Mr. Armstrong: Yes.

Mr. Bell: All right. Make sure everybody has caught up to you before we go.

Mr. Armstrong: I already got nods around the room that you were with me. I am sorry.

Mr. Bell: Sorry. I am the only one that was not then. Okay.

Mr. Armstrong: I am under, "Caplan faces an inquiry"--the first full paragraph on the right-hand side:

"Mrs. Caplan said that when her husband's consulting firm agreed to help Wyda find outside financing in May 1985 about the time of the last election, payment was apparently offered in one of three ways: a \$150 an hour fee for service; an \$8,000 monthly retainer; or a \$2,000 monthly retainer plus a \$50,000 bonus and five per cent of profits up to a maximum of \$600,000."

That would be the three options of funding---

1625 follows.



~~...a \$2,000 monthly retainer, plus a \$50,000 bonus, and five percent of profits, up to a maximum of \$600,000. That would be the three options of financing that are referred to at the bottom of page 20.~~

I think that is all we can say about that passage, pending further discussion with the secretary who took the notes.

Mr. Bell: Mr. Blakley, do you adopt your counsel's answers as those of your own, given at this inquiry, in respect of the source of the phrase on page 21 "to assist Mr. Caplan to start his own business" as the two articles that Mr. Armstrong just referred to?

Mr. Blakley: Yes, I do.

Mr. Bell: All right. Just for the record, did you or did you not say that at the board meeting?

Mr. Blakley: No, I did not.

Mr. Bell: Did somebody?

Mr. Blakley: Not to my recollection. If it was said, I do not know by whom. ?? somebody closer to the secretary than I was.

Mr. Bell: Is Mr. Armstrong's answer, then, to be taken, "if it was said by anybody at that meeting, the two articles are the source?"

Mr. Blakley: That is right.

Mr. Bell: Mr. Armstrong?

Mr. Armstrong: This is a report of a discussion of these press reports. That is the information I have.

Mr. Bell: Discussion at the board meeting?

Mr. Armstrong.: At the board meeting. Of the press reports I have just been through, which were sent to the board before the board meeting along with the Hansard I might say.

Mr. Epp: It is your conjecture...

Mr. Armstrong: No, it is not speculation, it is the story as we have been able to recollect it.

Mr. Bell: One more question from me before members may have questions on this point. Are you able, as of now, to identify the source of that reference at the directors' meeting?

Mr. Armstrong: Could you just...

Mr. Bell: Are you able to identify who said that, at the director's meeting?

Mr. Armstrong: No, we are not.

Mr. Bell: Are you making further inquiries to determine if that person or persons can be identified?

Mr. Armstrong: We will speak to the secretary when she comes back.

Mr. Bell: Can you phone her?

Mr. Armstrong: No, I am sorry, she is on holiday. We do not know where she is.

You have also asked me if the board had the Hansard before them, was that sent to them as part of the package before the board meeting, and the answer is yes. We have a Hansard here of June 10, which is a question by Mr. Gillies to the Premier; I have a statement given on June 11, by the Premier; and I have Hansard from June 12, which contains questions by Mr. Gillies and also the statement by Ms. Caplan. Those three pieces were before the board when it met on June 18.

Mr. Bell: Thank you very much. Is there anything else that you have available for the committee as of this date?

Mr. Armstrong: The only other thing you asked me about was about drafts of the board meeting of March 6. We have not got any drafts at this time, but we will check with the secretary, who would have written the notes, to find out what she did with her rough notes.

Mr. Bell: I believe I asked you this this morning, but in case I did not, I will now. You will take the necessary steps to retain and preserve the notes the secretary took of the June 18 meeting?

Mr. Armstrong: Yes, we will.

Mr. Bell: And have them available for my review as and when the minutes are completed?

Mr. Armstrong: Yes, we will.

Mr. Bell: And made available? Thank you. I am going to direct these questions to different people, and I will indicate to whom they are directed, so we will see if we can get along that way to try and shorten the process. I want to talk for the moment about the first introduction of the Wyda Corp. to the IDEA Corp. Mr. Blakley, do I understand correctly that you were the first person to whom the Wyda Corp. was introduced on behalf of IDEA?

Mr. Blakley: Yes, that is right

Mr. Bell: And when did that occur, sir?

Mr. Blakley: I think it was August 12...

Mr. Bell: Of 1985?

Mr. Blakley: Yes.

Mr. Bell: And how did that introduction come about?

4:30 p.m.

Mr. Bell: And when did that occur?

Mr. Blakley: I think it was August 1985.

Mr. Bell:

Mr. Bell:

Mr. Bell: And how did that introduction come about?

Mr. Blakley: It came about through a phone call from the assistant deputy Minister of Industry, Trade and Technology.

Mr. Bell: And who is that?

Mr. Blakley: Then Peter Barnes.

Mr. Bell: And at that time he was a director of IDEA?

Mr. Blakley: That is right.

Mr. Bell: And I understand in a legal sense was a director up to April of this year.

Mr. Blakley: That is right.

Mr. Bell: And as of August 12, he was the ADM for Industry, Trade and Technology? In other words, he had not been transferred to the Ministry of Community and Social Services.

Mr. Blakley: He was not transferred until March of this year.

Mr. Bell: Tell me about that discussion.

Mr. Blakley: It was not unusual for the ministry or particularly Mr. Barnes or one of his people to refer applications for assistance to IDEA, particularly if they were of a high tech nature.

It was quite common for applicants to approach the ministry and then the ministry would refer them down to us in the usual fashion, receive the proposals and deal with them as we would all other proposals.

Mr. Bell: As best as you can recall, can you tell me what type of discussion Mr. Barnes gave you of Wyda at that time.

Mr. Blakley: He said based on what his staff, the brief assessment that they had made out of it, it was something that looked very interesting. I said, "Fine," as I recall. "Send us down the business plan." He said he would and he had one or he would have it sent down. It came the next day.

Mr. Bell: To be fair to you, sir, your material in tab 3 particularly indicates that a business plan was received apparently from IDEA on August 12, 1985.

Mr. Armstrong: From Wyda.

Mr. Bell: From Wyda.

Mr. Armstrong: That is not what he said, he said IDEA.

Mr. Bell: I am sorry. Is that the business plan you have just referred to and is that when you received it?

Mr. Blakley: That right. It is date stamped August 12.

Mr. Armstrong: If you look at tab 2, at the bottom it is dated August 12, 1985.

Mr. Bell: That is the next question. What you received is tab 2?

Mr. Blakley: Yes.

Mr. Bell: Now where did you get it from? Did you get it from Wyda or did you get it from Mr. Barnes or his ministry?

Mr. Blakley: As I recall, it came directly from Wyda in the mail without a covering letter.

Mr. Bell: Did Mr. Barnes say anything else to you during that discussion about Wyda or anything in connection with Wyda or its aspirations?

Mr. Blakley: No, not other than what I already stated. That his staff had assessed it ??as being pretty advanced technology, good, new and innovative and thought we should look at it. He was having it referred to us.

Mr. Bell: Did he tell you in specific terms how much money they were seeking and on what terms?

Mr. Blakley: No.

Mr. Bell: In your tab 5--I am only referring to this to determine why you have deleted something in this paragraph--the first line, you had deleted the name of another company.

Mr. Blakley: That is right. Not another company, another party.

Mr. Bell: Another party. Is that another party that IDEA has done business with in the past?

Mr. Blakley: No, it was a company that attempted to do business with us and seek money from us for a syndication. We turned it down because we do not go into syndication.

Mr. Bell: This is another company, not an individual.

Mr. Blakley: Another company.

Mr. Bell: And did you have discussions-- I am sorry?

Mr. Wildman: The name was the name of an individual.

Mr. Bell: No. The name of a company. I can tell you it is the name of a company.

Mr. Wildman: Increase dramatically--

Mr. Bell: Just let me ask a couple more questions. Did you have discussions with Mr. Barnes on August 12 about that company in connection with Wyda.

Mr. Blakley: No.

Mr. Bell: Did you form any conclusions as to the source of the referral to the ministry, as relating to that company?

P1635 follows



~~IDEA Corp. No.~~

~~...any conclusions as to the names of the~~
~~...relating to the company?~~

Mr. Blakley: I do not know who referred Wyda to the ministry.

Mr. Bell: Did you form any conclusions as to who it might be?

Mr. Blakley: I might have had some suspicions as to who it might be.

Mr. Bell: Did you ever confirm those suspicions?

Mr. Blakley: No.

Mr. Bell: Did anybody else at IDEA Corp. ever confirm those suspicions?

Mr. Blakley: Not to my knowledge.

Mr. Bell: This is a question to any of you. Why have you deleted the name of this company, and what reason does the deletion have to the Wyda?

Mr. Logan: It is a company that applied to us for funding. We did not grant it. This memo indicates that they tried to use some of what they perceived to be their influence to get us to agree to do some funding, and we turned them down. We did not participate in funding this group and we did not think it would be appropriate to have their name, in as much as we have no formal dealings with them, made public.

Mr. Bell: Has that name, or that group, ever been associated, to your mind, with Wyda?

Mr. Blakley: Yes. In the group of companies that they were talking about raising, I think, \$16 million for, there were, I believe, some five different companies that they were going to put together in a consortium and a syndication, and syndicate the funds for these five companies, and one of the companies was Wyda.

Mr. Gillies: May I have a supplementary?

Mr. Bell: Can I ask one more question? Is it your evidence that in fact, in respect of IDEA Corp.'s involvement with this other group, August 3, 1985, the name of Wyda came up?

Mr. Blakley: It was on the list, yes.

Mr. Bell: As a recipient of any moneys that would be invested by IDEA Corp.

Mr. Blakley: If we were to invest it, it would have been, I presume.

Mr. Bell: When did that occur?

Mr. Blakley: When did what occur?

Mr. Bell: Your dealings with that other group which had some reference to Wyda.

Mr. Blakley: Many discussions over, I would say, a three-month period.

Mr. Bell: Give me the time frame of the three months, please.

Mr. Blakley: I would say May, June, July.

Mr. Bell: Of what year?

Mr. Blakley: Of 1985.

Mr. Logan: Excuse me. I believe we did not actually finally turn them down, until some time in September.

Mr. Bell: Of 1985.

Mr. Logan: Yes.

Mr. Bell: When did you start dealing with them?

Mr. Logan: This investment was handled by Geoff Cannon's side of the organization. I do not think any of us here know the exact date that they first applied for--

Mr. Bell: We will not hold the doctrine of perfection. Can you give us your best estimate? What month did it start?

Mr. Maruzzo: I know I was involved with Geoff on the other deal.

Mr. Bell: We have you on the record.

Mr. Maruzzo: I recall some meetings around the same time, sort of late summer. Now I do not remember the exact date when they came in.

Mr. Bell: During the period of time when you were dealing with that group, was the name of Wyda raised?

Mr. Maruzzo: Yes.

Mr. Bell: At any time during those discussions ??with that group, in the context of Wyda, was Mr. Caplan's name ever disclosed as being associated with Wyda?

Mr. Maruzzo: Not to my recollection.

Mr. Bell: Well, who else has a recollection of that?

Mr. Blakley: Nor mine.

Interjection: Nor mine.

4:50 p.m.

Mr. Bell: Who else has a recollection in respect of that question?

P-1650 follows

[REDACTED]
in the interest of [REDACTED] was Mr. Caplan's name ever [REDACTED]
[REDACTED]?

[REDACTED] to my recollection.

[REDACTED] who [REDACTED] association of [REDACTED]

[REDACTED]

[REDACTED] collection [REDACTED] the question

Mr. Logan: Mr. Cannon may.

Mr. Bell: Who else?

Mr. Logan: Possibly a gentleman by the name of Bill Douglas.

Mr. Bell: Will you make some inquiries, as quickly as possible and inform us as quickly as possible, whether anybody at IDEA in any discussions or dealings with this group or anybody representing this group was made aware of the association between Wyda and Mr. Caplan and if so, to what extent?

Mr. Logan: Yes, we will.

Interjection.

Mr. Chairman: No. We had an understanding at some earlier point that supplementaries would not be allowed. If you want to direct a question to our counsel, I will allow that, but not to the witness. There is no supplementary.

Mr. Gillies: I wonder if I might ask the counsel if he would ask the witness whether the person or persons involved in this other case which appears to have involved attempted influence peddling of some kind, whether the person or persons involved in that proposed transaction have in any way been involved in this investigation? In other words, have their names come up in the context of the Wyda case?

Mr. Bell: Do you gentlemen understand that question?

Mr. Armstrong: Not entirely. At least, speaking for myself.

Mr. Logan: I could try to repeat it. I think Mr. Gillies is asking that if any of the principals of the company involved whose names have been deleted have their names arisen at any point--

Mr. Gillies: In the context of this investigation.

Mr. Logan: --in the context of this investigation.

Mr. Gillies: To the best of your knowledge.

Mr. Logan: My question is being raised by Mr. Bell. I want to say no.

Mr. Bell: I want another more precise question on the record. As far as IDEA is concerned, does Mr. Caplan have any involvement with this company?

Mr. Logan: As far as the IDEA Corp. knows, no, we do not--

Mr. Bell: Members of the committee, you will receive the name of this group when you meet and receive all of the nonpublic matters for the IDEA. It is coming.

Mr. Pope: This matter was not brought before the three party representatives.

Mr. Bell: No, it comes within the description of the grounds for the deletion of some of the information in some of these documents. Mr. Armstrong, I have to say I have difficulty seeing how the deletion of that name comes within the description you gave me, but I invite you to enlighten me about how it does.

Mr. Armstrong: I would have to discuss that with Mr. Logan to answer your question specifically.

Mr. Pope: Could they do that now and could Mr. Epp, Mr. Philip and myself come up and see the name?

Mr. Ward: Could we not go in camera right now because the rest of the committee is stuck here fishing in a drum of oil, and if we could just move that we go in camera very briefly so it can be divulged to the committee.

Mr. Chairman: Everybody in agreement?

Mr. Bell: Another alternative is to invite the gentlemen from IDEA and their counsel to go into the hall for 30 seconds to decide whether they still wish to have the name deleted.

Interjection.

Mr. Gillies: Why not give them that option first and then make our decision based on that decision?

Mr. Chairman: Do you gentlemen want to--

Mr. Armstrong: Whatever you like. I would like to have the opportunity to discuss it with my clients.

Mr. Bell: That is what we say. Take some time outside, however long you need.

Mr. Chairman: We will adjourn for five minutes.

The committee recessed at 4:45 p.m.



1655
follows

Mr. Chairman: Could we get underway please. Before we hear your decision I would like to make a comment on one item that our counsel has expressed concern on and that is the 10a that was submitted to us. This is an appeal perhaps in vein to the media who are present that it is regrettable that this was placed in your hands prior to the witness appearing before us. I think there was an understanding by this committee that that would not occur and it has occurred regrettably. We would ask for your assistance and co-operation in this matter and not dealing with it prior to the witness appearing before the committee. I can do no more than make that appeal.

L-1700-1 follows

~~Chairman~~

~~... prior to the witness appearing before the committee. I can do no more.~~

Mr. Wildman: On a point of order: If that is your concern, Mr. Chairman, I think it is imperative that we have Ms. Caplan here tonight.

Mr. Bell: It is Ms. Mary Eberts. She will be the witness immediately after these people. The document should be received with her testimony. I trust the press's judgement implicitly not to do anything with that until after it has heard her testimony. I see an affirmative nod. I will take it.

?? Mr. Goldstein: If it is a request from you I understand--(inaudible)

Mr. Armstrong: I was going to ask ??--to discuss it but if that is not possible--

Mr. Chairman: If you want to get your heads together for a couple of minutes it is all right. We have waited this long I guess we can wait a couple more minutes.

While we are waiting perhaps I can discuss a couple of things with members of the committee. I would like to set aside some time tomorrow for an in-camera discussion in respect to scheduling, and also in respect to counsel fees. I think we can cover both of those subjects in about a half an hour.

What are the wishes of the members? Would you prefer to do that at the end of the afternoon session? Shall we do it in the morning?

Mr. Bell: Whenever you are in a better mood.

Mr. Chairman: If members are in agreement the first half hour of the meeting will be in camera and we will deal with those two questions.

Mr. Wildman: Agreed.

Mr. Armstrong: The reason we had deleted the name of the company involved was simply that all applications to the IDEA Corp. are treated as confidential. We do not object to saying who it was, and it was the Cumberland group.

Mr. Bell: For the record, was that group at all involved in Wyda's application which led to the financing of the subject matter of this committee's inquiry?

Mr. Armstrong: I would have to defer that.

Mr. Bell: You are shaking your head no.

Mr. Blakley: No, it was not.

Mr. Bell: Mr. Blakley, when did you first become aware of the business plan that was received, tab 2?

Mr. Blakley: I recall it was on my desk and we proceeded to log it in ...

70's
follows

is
(Mr. Blakley)

~~was received, and then proceeded to log it in~~ like any other application.

Mr. Bell: Is that August 12?

Mr. Blakley: Yes.

Mr. Bell: Who else at the Innovation Development for Employment Advancement Corp. reviewed that plan or about that date?

Mr. Blakley: It was passed by the library or logged in to Mr. Cannon who, as I understand, passed it to Mr. Parikh for analysis. Mr. Parikh reported to Mr. Cannon at that time. Shortly thereafter, Mr. Parikh was moved under Mr. Logan so the file then became the responsibility of Mr. Logan. That would happen all within a week.

Mr. Bell: I am sorry, you are going to have to speak up, sir. The microphones have to pick you up.

Mr. Blakley: The transfer of the application from Mr. Cannon's department to Mr. Logan's department would have happened some time within the next month.

Mr. Bell: All right. First of all, speaking for yourself, does the information that is contained in the plan that refers specifically to Mr. Caplan represent the first time that you were made aware of Mr. Caplan's association with Wyda?

Mr. Blakley: That is right.

Mr. Bell: So that people do not draw the wrong impression from the three pages, this is not all of the business plan, is it? You are shaking your head, no. You are going to have say no.

Mr. Blakley: No, sir.

Mr. Bell: There were résumés of other Wyda people.

Mr. Blakley: Yes.

Mr. Bell: Is it fair to say, as for the other people whom you have named in IDEA that received and reviewed that document within the time frame you have described, that was the first time they became aware of Mr. Caplan's association with Wyda?

Mr. Blakley: As far as I know.

Mr. Bell: Can the other people who were with you confirm that?

Mr. Logan: Same answer. As far as I know, that was the--

Mr. Bell: As far as you are concerned that was the first time you were made aware, when you reviewed this document for the first time.

Mr. Logan: I was not even aware of the Wyda application at that point. It was sent to Mr. Cannon, who sent the official acknowledgement, tab 2.

In tab 4, Mr. Parikh, who reviewed the business plan, wrote a memo dated September 9 to Mr. Cannon, summarizing the document. In his conclusions he suggested that maybe this investment should be considered by the innovation assistance department, which was the department of which I was vice-president. We then had some discussions about the appropriateness of that. Mr. Parikh got that suggestion and it was transferred into my jurisdiction some time later on during the month of September.

Mr. Bell: Mr. Blakley, in your discussions with Mr. Barnes on August 12, was Mr. Caplan's name disclosed?

Mr. Blakley: No, sir.

Mr. Bell: Mr. Blakley, when you reviewed this business plan, did you form the association between Mr. Caplan and Elinor Caplan?

Mr. Blakley: I personally did because I recalled the spelling Mr. Caplan being unusual with a C rather than a K and I remembered that the minister's name was spelled this way, and I made a mental association between the two.

Mr. Bell: Is that the only ground upon which you made the association?

Mr. Blakley: At that time, yes.

Mr. Bell: Do you know if the others who reviewed the document within the time frame you have described made a similar association?

Mr. Blakley: I do not know, and I did not tell them. To my recollection, I did not tell them who Mr. Caplan was. I did not think it was really material.

Mr. Bell: All right. Would you turn to tab 4 of the material. Mr. Logan, that is the memorandum you have just referred to, September 9 from Mr. Parikh.

Mr. Logan: Yes.

Mr. Bell: You have just told me, I believe, that the receipt by you and review by you of that document was the first time you became aware of the Wyda application.

5:10 p.m.

Mr. Logan: That is correct.

P-1710-1 follows.



~~Mr. Logan: That is correct.~~

Mr. Bell: Is that the first time you became aware of Mr. Caplan's association as particularly described on page 2 of that document?

Mr. Logan: On page 2 of this document it does not draw that inference. I do not believe I ever received a copy or was on the copy list for this memorandum. I did not learn of Mr. Caplan's relationship with the cabinet minister until we set up the meeting for October 9.

Mr. Armstrong: Excuse me, Mr. Chairman. Is Mr. Bell asking ??what Mr. Logan when he became aware of the association of Mr. Caplan to Wyda?

Mr. Bell: Yes.

Mr. Armstrong: All right. Then that was not the question that you were answered.

Mr. Bell: I know that. I was going to ask you. You read the document. You saw Mr. Caplan--

Mr. Logan: I can not even tell you I read this document when I first got it. It was not an application that I was handling, and I was on the copy list. I can not tell you for sure when I even read it.

Mr. Bell: Okay. But when you read it--

Mr. Logan: When I read it, I would have seen the name Wilf Caplan, yes.

Mr. Bell: When you read it for the first time, did you make an association in your mind between Mr. Caplan and Eleanor Caplan?

Mr. Logan: No.

Mr. Bell: When did you first make that association?

Mr. Logan: In preparation for the meeting of October 9, I was told about that association.

Mr. Bell: This is the meeting that was scheduled with the Wyda people.

Mr. Logan: That is correct.

Mr. Bell: All right, we will get to that in a minute.

All right, there is a Mr. Blakley.

At page four of this document-- do you have that page?

Mr. Blakley: I do.

Mr. Bell: Under recommendations, second paragraph: "Apparently this company is backed by prominent people and Harold Blakley wants to review this assessment with Peter Barnes after it is completed."

What did you mean by that?

Mr. Blakley: I did not write that. Parikh wrote that.

Mr. Bell: Did you want a review as described in this paragraph?

Mr. Blakley: Any time Peter Barnes, or most times when Peter Barnes would send something down to me, all he would say would be: "keep me informed."

Mr. Bell: Did you want a review. as this paragraph discloses?

Mr. Blakley: Pardon?

Mr. Bell: Did you want a review, as this paragraph describes?

Mr. Blakley: I am not disturbed by the paragraph. Parikh made an assumption this company was backed by prominent people. The reason they themselves listed the people as being outstanding people in their field-- I do not know what he meant by "prominent people". He may have assumed, I do not know, that because I asked for a review, or to be kept informed, that I had put some special importance on it, but I do not know that.

Mr. Bell: Is it your evidence that it is common practice for IDEA Corp, after it assesses an applicant, to review it with Mr. Barnes, or one of his counterparts at the ministry?

Mr. Blakley: Not normally.

Mr. Bell: Then why did you express that in this case?

Mr. Blakley: Only the ones he refers to me himself.

Mr. Bell: All right. Then you intended, at least as of the date of this memorandum, to review that with him.

Mr. Blakley: Not this. I would not review this memorandum with him.

Mr. Bell: No, no, no. As of the date of this memorandum, it was your intention to review whatever assessment was done by IDEA of Wyda, after it is completed.

Mr. Blakley: That is right.

Mr. Bell: Did you?

Mr. Blakley: Yes, I believe I did. I likely reviewed it with him at the following board meeting, which would be the next time I saw him.

Mr. Bell: When was that?

Mr. Bell: I do not have a record of the next board meeting; I think it would be in October.

Mr. Bell: Did you prepare any written report to him?

Mr. Blakley: No.

Mr. Bell: Did you give him an oral report?

Mr. Blakley: I likely did.

Mr. Bell: Do you recall the discussions with him?

Mr. Blakley: No sir.

Mr. Bell: Do you know if during those discussions you discussed Mr. Caplan and his association with Wyda?

Mr. Blakley: I certainly do not recall it.

Mr. Bell: Have you had any discussions with Mr. Parikh about what he meant by...



P-1715-1 follows

Have you had any discussions with Mr. Parikh about what I read by "backed by prominent people?"

Mr. Blakley: No I have not. He has been out of the company for some weeks now and reviewing this document, he was not available.

Mr. Bell: The next thing that happened as I understand it, chronologically, and Mr. Logan has already referred to it, is a meeting of October 9, scheduled between IDEA and Wyda?

Mr. Logan: I believe there was an earlier meeting, October 3? October 4? Mr. Maruzzo and Mr. Parikh I believe met with Mr. Dobzinski.

Mr. Bell: Where?

Mr. Logan: I refer that to Mr. Maruzzo.

Mr. Maruzzo: I do not remember. I know I had one meeting with Mr. Parikh at Wyda.

Mr. Bell: Specifically was it this first meeting?

Mr. Maruzzo: I really cannot say.

Mr. Bell: Do you have any means of refreshing your memory such as a diary or notes?

Mr. Maruzzo: I have notes of that meeting. They are at our counsel.

Mr. Bell: They are where?

Mr. Maruzzo: At Blake Cassels & Graydon.

Mr. Bell: Would you refresh your memory from those notes as quickly as possible?

Mr. Armstrong: Yes.

Mr. Bell: As of now do you believe that first meeting was at Wyda's office? Whenever you met at Wyda with Mr. Parikh, did you meet Mr. Caplan then?

Mr. Maruzzo: No, I did not.

Mr. Bell: Did you see Mr. Caplan then?

Mr. Maruzzo: I have never met Mr. Caplan.

Mr. Bell: We get to the October 9 meeting. Did you prepare a report as a result of the October 3 meeting?

Mr. Maruzzo: No I did not.

Mr. Bell: What was the purpose of the meeting?

Mr. Maruzzo: Pat Parikh had arranged the meeting. I was asked to attend to ask some technical questions. It was a preliminary meeting to meet the people. Up to that point I do not believe we had met the principals of the

(Mr. Maruzzo)

company of anyone from the company. It was to go through the business plan and ask some questions about it.

Mr. Bell: To whom were you introduced at that meeting?

Mr. Maruzzo: Mr. Dobzinski.

Mr. Bell: Anybody else?

Mr. Maruzzo: No.

Mr. Bell: The October 9 meeting was held where, Mr. Logan?

Mr. Logan: At the IDEA Corp.

Mr. Bell: What was the purpose of that meeting?

Mr. Logan: The purpose of that meeting was to get me involved in meeting Wyda and understanding what it was about. I think at this point the very preliminary feeling was this looked as if it could be a very attractive proposal. The business plan had not initially been directed to my department and this was a way of bringing me out to speak.

Mr. Bell: Who arranged the meeting?

Mr. Logan: Mr. Parikh.

Mr. Bell: Who from IDEA attended?

Mr. Logan: Myself, Mr. Parikh and Mr. Maruzzo.

Mr. Bell: Were notes taken at that meeting?

Mr. Logan: I believe so, yes. I have some notes I believe.

Mr. Bell: Have you delivered those notes to your counsel?

Mr. Logan: Yes, they are in those files.

Mr. Bell: Who did you expect would come to the meeting from Wyda?

Mr. Logan: I had been given to understand from Mr. Parikh, that both Mr. Dobzinski and Mr. Caplan would attend that meeting.

Mr. Bell: Who did attend from Wyda?

Mr. Logan: Mr. Dobzinski.

Mr. Bell: Did he give you any explanation why Mr. Caplan was not there?

Mr. Logan: Yes, he did.


Mr. Bell: What was that explanation?

26
Mr. Logan: He explained that because of his relationship with the members of the Ontario cabinet he felt it was not appropriate for Mr. Caplan to be involved in the meetings and negotiations leading up to our making a decision.

5:20 p.m.

Mr. Bell: Would you refer to tab 5, your October 16 memorandum. First of all, why did you believe it--

P-1720-1 follows



Mr. Bell: ~~Would you refer to tab 5 on your October 16 memorandum~~

~~First, why did you believe it necessary to prepare such a memorandum?~~

Mr. Logan: I believed it was necessary because I felt that Mr. ??Budinski and WYDA Systems Inc., in this case, was handling the relationship, the potential for a conflict of interest, in a very wise manner when certainly there could potentially have been some problems. Having been reasonably new to Innovation Development for Employment Advancement at that time and there having other people not necessarily having the ability but certainly trying to impress us with their ability, it was refreshing that an applicant would take this very straight forward manner and not want to create an appearance of bringing political pressure to bear on us in our decision.

Mr. Bell: Then, was one of your intentions of the memorandum to record a contrast between how WYDA dealt with IDEA versus how others dealt with IDEA?

Mr. Logan: That is correct.

Mr. Bell: Did you intend to draw a parallel at all between the WYDA experience and the experience with the other entity that is described in this memorandum?

Mr. Logan: Yes, essentially.

Mr. Bell: Be careful. Do you understand what I mean by the word parallel?

Mr. Logan: Perhaps you should explain it to me.

Mr. Bell: Was it your intention to record the similarities in the experience or the similarities of the dealings by WYDA vis-a vis the subject versus the dealings of another group?

Mr. Logan: I did not personally have anything to do with the other group. I was given to understand how the other group was dealing with staff members.

Mr. Bell: Was that, in any way, similar to how WYDA had been dealing, at least up to that date?

Mr. Logan: No.

Mr. Bell: In the second paragraph have you accurately recorded what Mr. Dobzinski said to you as for Mr. Caplan's involvement?

Mr. Logan: I believe so. I dictated this after the meeting. It would have been one week after the meeting, October 16, and I have to assume that this was an accurate reflection.

Mr. Bell: Did you understand that whatever was included, nothing to do with any of the meetings or negotiations that IDEA Corporation might have with WYDA, included all such meetings and negotiations leading up to the approval by IDEA of any financing?

Mr. Logan: It certainly would have applied to meetings up to the point where we became committed that we would like to make an investment and then we would negotiate that investment with WYDA. There are a couple of hurdle points in our process where we make decisions to carry on.

Mr. Bell: Did you discuss that specifically with Mr. Dobzinski at that meeting as to what the circumstances were and when you might want to speak to Mr. Caplan?

Mr. Logan: We pointed out to him that we would need, presumably, to speak to his vice president of finance when it came to reviewing the financial matters of the firm, and back is a reference where he said, "Well, if you have matters pertaining to the financial projections and the finances of the company, Mr. Caplan would be the individual to address those questions to."

Mr. Bell: Was it your understanding that Mr. Caplan's involvement would be to the giving of information to WYDA?

P-1725 follows



(Mr. Bell)

~~involvement would be solely in the context of the giving of information to Wyda?~~

Mr. Logan: Do you mean solely in giving the information to IDEA?

Mr. Bell: I am sorry, to IDEA.

Mr. Logan: That was certainly a role that Mr. Dobzinski felt he would have to play. I could not foresee every eventuality about what we might have to do with Wyda with respect to eventually making ?? at that specific time. It was virtually impossible.

Mr. Bell: The next document, tab 6 in your material, you can confirm that is your letter to Mr. Dobzinski giving, on behalf of IDEA, its reaction to the proposal, at least as of that date?

Mr. Logan: Yes.

Mr. Bell: Can you confirm your discussing in a very general term and a very general sense some form of investment?

Mr. Logan: Yes. I might add that one might have suggested I should have known Mr. Dobzinski was going to need some help should we ever get to the point of negotiating the deal, because of the initial basis that I have talked about. I have said, "Your proposal is difficult to evaluate in terms of the necessary percentage ownership an investor would receive in return for a \$5-million investment." His proposal, in terms of financial structuring of what a deal would be, was not nearly as sophisticated as what we would typically have received.

Mr. Bell: Are you saying that on or about the date of this letter you formed that conclusion at least in your mind?

Mr. Logan: I am saying that second paragraph refers to a difficulty in understanding exactly what his proposal was suggesting. We talked in some very vague terms and I was trying to get from him what he was really talking about, in terms of percentage ownership.

Mr. Bell: I want to relate that, if it is to be related, to Mr. Caplan and the role you understood he performed for Wyda.

Mr. Logan: Right.

Mr. Bell: Are you saying that around the date of this letter you formed, at least in your mind, the conclusion that you would need access to Mr. Caplan sooner rather than later?

Mr. Logan: I do not think it is fair to say that I did conclude that. It is fair to say that I probably should have considered that.

Mr. Bell: All right. We thank you for your candour.

Did you subsequently form the conclusion that you needed access to Mr. Caplan directly?

Mr. Logan: It was very clear much later in the process when we started to negotiate the terms that Mr. Dobzinski needed advice and help on structuring a deal of this size.

Mr. Bell: This will save time later. When did that occur?

Mr. Logan: That would be in late January and early February when we were trying to negotiate the deal so that we could prepare a venture summary and submit it to our board of directors.

Mr. Bell: Did you then communicate that to Mr. Dobzinski?

Mr. Logan: Communicate what to Mr. Dobzinski?

Mr. Bell: The need to deal directly with Mr. Caplan.

Mr. Logan: No. He involved Mr. Caplan on his own initiative.

Mr. Bell: At your suggestion?

Mr. Logan: No.

Mr. Bell: At his initiative?

Mr. Logan: Yes.

Mr. Bell: When did that occur?

Mr. Logan: That would have been in that late January period.

Mr. Bell: We will get to that because there were meetings with Mr. Caplan. Just one more thing on this letter. On page 2, you describe the extent of the full investment at \$6 million that they are looking for? You indicate at least as of this date that you would probably be interested in an amount up to \$2 million. How, why and when did it go from \$2 million to \$3 million?

5:30 p.m.

Mr. Logan At this early time
P-1730-1 follows



~~(Mr. Bell)~~

~~...you would probably be interested in an amount up to \$2 million. How, why, and when did it go from \$2 million to \$3 million?~~

Mr. Logan: At that early time it was certainly part of negotiations. One does not want to lead any proponent who is seeking money from one astray and build up their expectations about how much one is going to invest. On the basis of the knowledge that I had at that point in time, understanding that there being the one memorandum, there had been a meeting with Mr. Maruzzo, Mr. Parikh and Mr. Dobzinski and a meeting with myself, I certainly was not willing to lead them to believe that we would invest more than \$2 million.

Mr. Bell: Okay. Would you turn to tab 7 please.

Is this merely what the subject reference says? It is an update on IDEA's dealings with WYDA as of this date?

Mr. Logan: Yes.

Mr. Bell: It is from Parikh to you with copies to those shown?

Mr. Logan: Yes.

Mr. Bell: You are still talking about \$2 million?

Mr. Logan: Yes.

Mr. Bell: Some report is positive on WYDA's technology?

Mr. Logan: Yes.

Mr. Bell: Has the committee received that report that is referred to under technology assessment?

Mr. Logan: You will have seen it in our file.

Mr. Bell: I deserve that.

Mr. Logan: However, it is extremely sensitive.

Mr. Bell: Is it anymore sensitive than the report the committee will receive in camera?

Mr. Logan: The technological consulting report is, from a commercial perspective, the single most sensitive document that we have in our files.

Mr. Bell: I propose we defer a decision on that until we see how far we get with the rest of the examination of these people as to whether it is necessary for your purposes in camera.

Under strengths, item 3, "the ability to oragnize quickly. WYDA has done an excellent job to recruit the quality and depth of staff." Is Mr. Caplan included in that descriptive phrase?

Mr. Logan: I am not sure if that relates only to the technology assessment, which is the uppercase heading above it, or whether that relates to--

Mr. Bell: Let us not prolong it. Let us get on with it.

Would you go to the second page, then.

Under "Conclusion."

Mr. Logan: Yes.

Mr. Bell: The technology assessment has answered the first major issue raised in the September 9 review," and somebody answers this question, "Yes; WYDA is likely to develop the unique ??cabcan work station.

Is that conclusion fundamental to WYDA's and IDEA's decision to make the investment?

Mr. Logan: Yes.

Mr. Bell: The last page 4 under "Financial Plan." Will you confirm that the matters listed under those points are matters of information that you further require before you can finalize your decision of whether to make the investment?

Mr. Logan: Those would be matters that we would require prior to...

P-1735 follows



Mr. Logan: ~~These would be matters that we would require prior to~~
taking a recommendation forward to our board.

Mr. Bell: Is it fair to say that the answer to those questions are fundamental to making the final decision whether to recommend investment?

Mr. Logan: They would certainly be important. They would be critical for our negotiation of, if we were going to invest money, how much of the company we would want in return, because we certainly want to have our own projections and understandings of how profitable we think the company can be, therefore how much of the equity we wish in return for an investment ??

Mr. Bell: And the reference to Mr. Caplan ?? be answering some of these questions next week. Can you tell us now which of the questions you or he did answer the following week, or whenever?

Mr. Logan: I would have to believe that he answered ?? certainly number two and three; I do not recall seeing any evidence that we had done a benefit-cost analysis for potential use.

Mr. Bell: How did Mr. Caplan answer those questions?

Mr. Logan: This would have been done between Mr. Parikh and Mr. Caplan.

Mr. Bell: Would they have been answered by him in person, or by some form of communication?

Mr. Logan: They would have been either in person or by telephone, I am not sure which.

Mr. Bell: Does that represent the first direct access to Mr. Caplan by ??IBS?

Mr. Logan: I believe so, yes.

Mr. Bell: Would you turn to the following document, TAB 8, and the third paragraph on the first page?

Does this record for the first time the decision by IDEA Corp. to invest in Wyda in some way?

Mr. Logan: I believe this would be first ??registered on paper. Presumably we ??would discuss it among ourselves to come to a conclusion to try to reach some kind of an agreement.

Mr. Bell: All right. May we conclude that your conclusion was formulated after you received the answers from Mr. Caplan that we have just looked at in the previous document?

Mr. Logan: I would say that we would have received explanations on certainly some of the financial questions, if not all of them, but I am not specifically aware when he replied to every single request of ours for financial information.

Mr. Bell: Would you turn to the next document, then? Number 9?

You can confirm that this was prepared by you or under your direct supervision?

Mr. Logan: yes.

Mr. Bell: This is the venture summary that was ultimately presented to the board and considered by them at the March 6 meeting wherein the decision to invest was made?

Mr. Logan: Yes.

Mr. Bell: Mr. Logan, Can you try and recreate in some distilled way the role you played at that March 6 meeting, and can you tell the committee, with reference to this expurgated venture summary, why it was a good investment for the amount that was ultimately approved?

Mr. Logan: I believe there is a couple of questions? First of all, the role I played; secondly why I thought it was a good investment?

Mr. Bell: I just want you to adopt, in a distilled way, the role that you played at the March 6 meeting, when you made the presentation to the board, and try and duplicate that, in a distilled way, for this committee.

[REDACTED]

P-1740-1 follows



Mr. Logan: I basically prepared the overhead slides (which we discussed earlier). I presented those overhead slides to the Board of Directors, at its meeting of March 6. I reflected in my introduction to the board, in my verbal presentation, the tone that I have led off the ??objective summary with and that is: why it is one of the most exciting proposals ever presented the IDEA Corp.

The reason - I believe that is what you are asking; why I believe that - is that the market for mechanical CAD-CAM systems is already very large; a number of the existing companies servicing that market are having a great deal of difficulty meeting the expectations of the market for a product that can do all of the things that that market would like to have; that the technical evaluation we had done by the Ontario CAD-CAM centre of the technology here verifies why it was claimed that they had a truly innovative quantum leap forward in technology development that could literally stand the entire CAD-CAM industry on its ear.

We had had a marketing assessment done by one of two people who we had determined ?? market experts in North America ?? We had hired one of those individuals to meet with Wyda, to see part of the Ontario CAD-CAM centre's technological review, although not enough to allow him to understand the technology itself, because this man understands CAD-CAM technology very well, and Wyda is very very concerned that their technology escape ?? and be available to competitors.

He had, despite the fact that we pushed him very very hard on Wyda's sales projections (that we believed would be virtually impossible to achieve), informed us that it was his belief that if they could truly deliver this product, in early 1987, that those sales projections could have been conservative.

It was on the basis of that kind of technical evaluation, the marketing evaluation we had done, and the very high quality of people he had, ?? and Wyda had, working on this project, the fact that they were developing this project on a very rapid time basis, the CAD-CAM centre had given them credit for being on schedule despite it being a very aggressive schedule, that so that the management team was also viewed as being very strong and it was through that combination of a major breakthrough technologically, a huge market that was desperate for a product of this type, and a very high-quality management group, that I felt this was an extremely exciting proposal, and communicated that both in this document, and in my presentation to the board of directors.

Mr. Bell: The high-quality management group that you have just described, does it include Mr. Caplan?

Mr. Logan: Yes, it would.

Mr. Bell: And in fact on page 5 of the document he is referenced and some of his experience, etc., is listed?


Mr. Logan: That is correct.

Mr. Bell: Now when we looked at the previous document, the January 27 letter, you were prepared, and told Mr. Dobzinski that you were prepared to recommend an investment of \$2 million.

Mr. Logan: I think I said one, did I not?

Mr. Bell: I am sorry, \$1 million. And on February 12, your venture summary recommends --

P-1745-1 follows



July 2, 1986

Mr. Bell

~~On February 12, your venture summary recommended \$3 million in the two stages. Can you explain to the committee how the figure increased from \$1 million to \$3 million and why?~~

Mr. Logan: At the time I wrote the January 27, meeting we were approaching the end of our 1986 fiscal year and in discussions I had with Mr. Blakley and Mr. Cannon, we were reviewing how much we had already invested in that fiscal year. This is what we had laid out in our budget. We were going through an exercise of what else would we like to invest in if we had to stay within the capital budget that we had proposed. At that point in time, in those discussions, the best I could provide to Wyda, given other investments from both Mr. Cannon's department and my own, was \$1 million. That is where the \$1 million comes in and I wrote the letter to that fact. This was essentially an initial proposal to get discussions going as to firm the deal.

Let me step back. Subsequent to that, all alone knowing that Wyda certainly could use more. It needed \$6 million. We had initially talked about \$2 million. It was not a matter of feeling it should not be invested, it was a matter of how much money we had to invest. Subsequent to my writing this letter and prior to that February 12 document, we had further discussions relating to whether we could invest some of the capital funds that had been allotted the IDEA Corp. previous years and not spend it and also the fact that this investment was highly unlikely to be completed before March 31, 1986 and in effect this investment would occur in our 1987 fiscal year. We were not necessarily limited even if we did have to stay within our capital budget until 1986. I understand in the time Mr. Blakley was trying to receive guidance as to whether we had to stay within that.

Given those two reasons, again in a discussion with Mr. Blakley and I also believe Mr. Cannon was involved in that discussion, we felt we should invest an amount that seemed appropriate to invest, given that we were extremely excited about this proposal. We did not want to invest more than \$3 million certainly and so we moved it from \$1 million to \$3 million.

Mr. Bell: Is there anything else in terms of this venture summary you wish to draw to the committee's attention as relevant to the reasons for the recommendation for the \$3 million investment?

Mr. Logan: I think everything I have put in here was relevant to the decisions made of the investment. In trying to be concise because you asked me to be concise, I gave you what I felt were the most important aspects and that was the technology and its review by a highly qualified group who reviewed the technology, the attractiveness of the market and its review by a very respected consultant and what we believed was a very strong management team.

Mr. Bell: Just for the public record, page 4, which has been removed, you can confirm is a description of some other member's of Wyda's management group?

Mr. Logan: That is correct. I believe that was removed at the request of Wyda, prior to the distribution of this document because there was a reference to a representation form developed by the principle scientist of Wyda that they believed was commercially sensitive.

5:50 p.m.

Mr. Bell: Just to complete
P-1750-1 follows

(Mr. Logan)

~~term developed by the principal scientist of Wyda that they believed was commercially sensitive~~

Mr. Bell: Just to complete the chronology, would you turn to tab 12, please. Can you confirm that is your indication to Mr. Dobzinski, on that date, what the deal is that you are prepared to recommend to the board of directors?

Mr. Logan: Yes, I can.

Mr. Bell: Is that the deal that the board of directors agreed to?

Mr. Logan: Yes. I gave him more details in here than I would have presented to the board of directors because I wanted him to be aware of some of the other details, but the major financial points are accurate.

Mr. Bell: This letter does not refer to the timing of the exercise of the option for the second phase, nor of the condition that we discussed this morning that Wyda retire certain of its long-term debts. Can you tell us when those two things were raised and for what reasons?

Mr. Logan: After it was approved by the board of directors, they came in the course of our preparation of legal documentation.

Mr. Bell: Before the March 6 meeting?

Mr. Logan: No. After the March 6 meeting, we would have sent probably this letter and the resolution that was approved by the board to our legal counsel to begin preparation of the documentation. Probably about one week later we would have reviewed the initial documentation and then forwarded it to Wyda. That would have been the start of our preparation of legal documentation. It was during the course of that leading up to our signing that the decision to exercise the option---

Mr. Bell: I cannot remember this morning whether it was Mr. Macdonald or whether it was you, that indicated the reasons and circumstances or the accelerated exercise of the option and confirmation that the \$4.5 million of the long-term debt that was retired, was retired from Wyda moneys.

Mr. Logan: That was myself.

Mr. Bell: All right. I do not have to deal with that. We have looked at the March 6 minute in tab 14. We already have an undertaking that you are going to see what drafts are still available and secretary's notes so we will not bog down on that right now.

Tab 10, that part of the slide presentation, that presentation was in fact done by you?

Mr. Logan: Yes, it was.

Mr. Bell: Do you recall whether when you showed the board the overhead describing Mr. Caplan, what the discussions were respecting him and his association with Wyda?

Mr. Logan: My recollection was that I pointed out that he was the husband of a parliament member of the Ontario government and at that point, Mr. Macdonald requested from board members if they had any comments with regard the fact that the vice-president of finance of this company was Mr. Caplan and the husband of Elinor Caplan.

Mr. Bell: Do you recall any other discussion?

P-1755-1 follows



Mr. Logan:

~~was Mr. Canlan and the husband of Elinor Canlan~~

Mr. Bell: Would you recall any other discussion or comments by any board members respecting that fact?

Mr. Logan: I am not sure if the chairman summarized or one of the board members might have said, "This should be"--as a result no one did anything but a comment was made at the time that this project should be reviewed like any other project that comes in front of us.

Mr. Blakley: I believe I recall, Mr. Bell, that the chairman went around the table and asked for each individual director if he had any comment or objections. There were none, so he proceeded. It was very brief.

Mr. Bell: Tab 11, Mr. Logan.

Mr. Philip: May I through legal counsel just ask--that is not the testimony this morning is it? Mr. Macdonald said there was general discussion, as I recall.

Mr. Logan: I do not recall that.

Mr. Bell: I think he indicated that it was the unanimous view of all directors present that they should proceed to consider the proposal as they would any other perspective investment.

Mr. Logan: Yes.

Mr. Gillies: I made notes this morning, Mr. Chairman. Mr. Macdonald said he raised it during the slide presentation and "There were no comments by any other director at that time."

Mr. Bell: Okay. Tab 11. When did IDEA receive the document that these two pages are part of and for what purpose?

Mr. Logan: I do not really know. I would have to go back and find out what the nature of this document is. All we have included here is the cover page and page 12, showing an organization chart.

Mr. Bell: Would you make those inquiries and advise us as soon as possible.

Mr. Logan: Sure.

Mr. Bell: Mr. Macdonald indicated he did not believe that was made available to the directors. Can you confirm that now?

Mr. Logan: Yes, I can.

Mr. Bell: March 6, the deal is approved. I want to get this timing in sequence down a little further to the accelerated option. Can you tell us now when the option was exercised in relation to the March 6, meeting?

Mr. Logan: The option was exercised at the time we closed the deal.

Mr. Bell: On April 18?

Mr. Logan: Yes. We also signed the subscription agreement on April 12. Mr. Dobzinski then had to arrange for the retirement of the debt before we would flow, not only the 1.7 but also our 1.3.

Mr. Bell: That was done before the \$3 million was paid to Wyda?

Mr. Logan: That is correct.

Mr. Gillies: Sorry, did he obtain other financing to retire the debt or did he have assets on hand?

Mr. Epp: Sorry, Mr. Chairman, we are going to get into supplementaries.

Mr. Gillies: It is just a point of clarification.

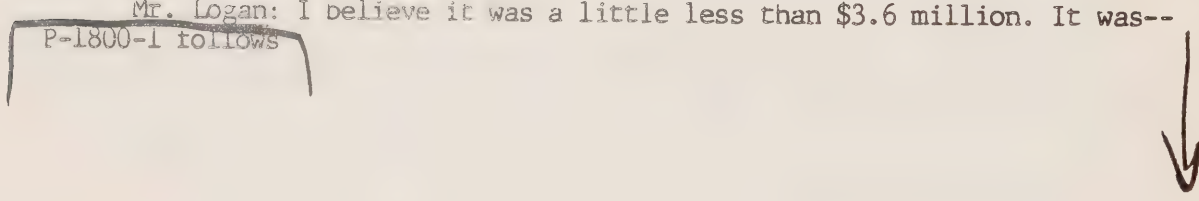
Mr. Bell: We will get to that either through this witness or through Mr. Dobzinski. Was IDEA made aware of the source of the funds to retire the \$4.5 million in debt?

Mr. Logan: We were given to understand that it came from his family.

Mr. Bell: Just so the record is clear. I understand that they were able to retire \$4.5 million with a long-term debt for \$3.6 million?

6 p.m.

Mr. Logan: I believe it was a little less than \$3.6 million. It was--
P-1800-1 follows



~~Mr. Bell: Just so the record is clear, I understand that they were able to retire \$4.5 million with a long-term debt for \$3.6 million?~~

Mr. Logan: I believe it was a little less than \$3.6 million. It was \$3.5 to \$3.6 million.

Mr. Bell: Would you turn to tab 15, please. Is this a note in your handwriting?

Mr. Logan: Yes, it is.

Mr. Bell: Does it represent a discussion you had with Mr. Caplan on March 17 of this year?

Mr. Logan: Yes, that is correct.

Mr. Bell: With reference to the first point, can you tell us what the discussion was about?

Mr. Logan: Yes. Sometime around January, the Wyda Corp. was being financed essentially by advances and shareholders loans by Mr. Dobzinski and his family. Wyda had a payroll and some other expenses that they wished to pay by April 1. Mr. Caplan called and asked if we would consider making an advance guaranteed by Avi Dobzinski personally. He was willing to personally guarantee the deal would not close, they would be good for the money for April 1. It was due to their cash flow problem. The amount that was requested was \$100,000.

Mr. Bell: Is your note just to the right of the no, replied, "No, March 1986."

Mr. Logan: That is correct.

Mr. Bell: Did you communicate that to Mr. Caplan that day?

Mr. Logan: On March 19, 1986.

Mr. Bell: Yes?

Mr. Logan: Yes.

Mr. Bell: What was the reason for the reply?

Mr. Logan: At the time he requested it, I told him it would be highly unusual for us to do that, but that I would think about it essentially. I do not recall if I specifically discussed it with Mr. Blakley or not, but certainly after thinking about it, I decided not to do it because I did not want an event such as that to ever impact on our ability to close a satisfactory arrangement with Wyda, which we subsequently did.

Mr. Bell: How would it?

Mr. Logan: At this point in time although we had settled on the amount, the percentages and the dollars, there were many things still under negotiation. There are many aspects of what Wyda is going to be able to do without our approval, as an example. We had a lot of negotiations still going to take. If we had advanced \$100,000 into the company, I felt that might weaken our ability to get the optimum conclusion of our negotiations with Wyda

July 2, 1986

SP

(Mr. Logan)

in that we more or less got \$100,000 at risk and if we do not complete the deal for any reason whatsoever, we might risk losing this \$100,000. I did not want a club hanging over my head that we would have to complete this deal or else lose \$100,000.

Mr. Bell: Will you turn to tab 16, please. Are you able to confirm that these two pages are part of the closing documentation?

Mr. Logan: These three pages are part of our closing documentation.

Mr. Bell: I am sorry, the three pages. Who requested the acknowledgement dated April 11, 1986 from Mr. Caplan, and why?

Mr. Logan: I cannot tell you who specifically requested it. There was a number of negotiations that would go on between lawyers representing IDEA Corp. and lawyers representing Wyda as to the schedules that would be attached to a subscription agreement that would both satisfy Blake Cassels and Graydon, on our behalf, that everything of importance had been divulged, and also presumably permit the other lawyer to give an opinion that it could be done.

This may have been specifically requested by our counsel acting on our behalf, but I do not know.

Mr. Bell: To save time. Is there anybody in this room that can confirm what the reasons were?

Mr. Armstrong: Can I introduce my colleague, Mr. John Philips.

Mr. Bell: Certainly, he can come forward if he can assist to deal with this now.

P-1805-1 follows



~~Mr. Armstrong: Can I introduce my colleague, Mr. John Phillips?~~

~~Mr. Bell: Certainly. He can come forward if he can assist us with this now.~~

Mr. Chairman: You will have to be sworn in, Mr. Phillips.

Mr. Bell: No.

Mr. Chairman: Should he not be?

Mr. Bell: I do not think it is necessary to swear an officer of the court.

Mr. Chairman: All right.

Mr. Bell: He is already bound by an oath.

Mr. J. H. Phillips: I, too, cannot remember if I ever knew which side specifically requested this acknowledgement of the debt. What we would have done at the the Blake side is to obtain and request for a sum evidence that the condition precedent set out in the subscription agreement had been met. At the same time, ?? Baker asking for Wyda, would have, at their own side, sought some evidence from the particular party, whoever it was, ensuring that the matter had been dealt with as well.

At the rate of speed at which we were travelling at that time, there probably would have been some issue that this and maybe some other loose ends that were loafing around that related to some other participants in Wyda, had to be dealt with. A simple piece of paper was a quick and guaranteed answer of settlement, so we accepted it.

Mr. Logan: We might want to have their word--this similar statement was made with regard to contracts with two other employees of Wyda. Mr. Caplan's relationship was not the only one in which an acknowledgement letter was provided.

Mr. J. H. Phillips: Those related to shares. We find that when we are moving quickly, instead of negotiating these matters, the best thing to do is get a simple piece of paper that is dead, straightforward and take it. That covers up all the--

Mr. Bell: All right. What is it that you intend to cover off, just from Innovation Development for Employment Advancement Corp.'s standpoint? I do not want you to speak for Wyda's counsel; just speak as IDEA's counsel. What is it you wanted to cover off by the receipt of the January 31 letter and the attached acknowledgement?

Mr. J. H. Phillips: That no money was payable.

Mr. Bell: On the closing of the deal.

Mr. J. H. Phillips: Yes.

Mr. Logan: (inaudible)

Mr. J. H. Phillips: But that does not ?? to the acknowledgement.
I speak of the acknowledgement.

Mr. Bell: That no money was payable on the closing of the deal as it relates to the attached document, the January 31 letter.

Mr. J. H. Phillips: Correct.

Mr. Bell: Did IDEA or its counsel form any conclusions when they received and considered this letter prior to closing as for the duration of the letter agreement, which is attached to the acknowledgement?

Mr. J. H. Phillips: I cannot speak for IDEA. Perhaps my associate who was handling the paper work came to a view.

Mr. Bell: Do you know what that view was?

Mr. J. H. Phillips: No.

Mr. Bell: Did IDEA come to any conclusion as to the duration of the agreement that is attached to the acknowledgement?

Mr. Logan: I am not fully sure I understand the question, Mr. Bell.

Mr. Bell: When you received the letter and the acknowledgement, how long did you believe the agreement would last?

Mr. J. H. Phillips: Sorry. You have changed it from the acknowledgement to the agreement. Which one do you mean?

Mr. Bell: You got them both at the same time.

Mr. J. H. Phillips: No. We received the agreement ahead of time.

Mr. Bell: All right.

Mr. J. H. Phillips: The agreement is one of ?? term, I believe.

Mr. Bell: Is that what IDEA or its counsel, on its behalf, took to the duration of the agreement to be?

Mr. Blakley: I do not believe we had no reason to question the duration of the agreement.

Mr. Logan: There is a reference located in the bottom paragraph where it says, "Second round financing is understood to mean funds raised by the sale of ?? borrowings or the entering into a research and development contract specifically excluding the dealings with the Ontario government, ministries or agencies after November 1, 1985 and prior to June 30, 1987."

Mr. Bell: Does that speak to the term of the agreement?

Mr. Logan: I do not know--

Mr. J. H. Phillips: I have to read it now to give you an answer. Is that fair?

mjp
6:10 p.m.

P-1805-3


45

July 2, 1986

Mr. Bell: Yes, certainly.

Mr. J. H. Phillip: I suppose that is correct. Yes.

P-1810 follows

A hand-drawn bracket is positioned below the text "P-1810 follows". To the right of the bracket, a hand-drawn arrow points downwards.

~~Mr. J. H. Phillips: I suppose that is correct. Yes.~~

Mr. Bell: Specifically, did the Innovation Development for Employment Advancement Corp. believe that this agreement would extend beyond the closing date?

Mr. Logan: Yes.

Mr. Bell: The clerk will have to assist you in this regard and place before you a copy of the committee's exhibit brief. If you have it, would you turn to tab I and what, I hope, is numbered as page 13 of that material, it is a letter from Mr. Caplan to Wyda of April 14, 1986?

Mr. Logan: From Mr. Caplan to?

Mr. Bell: To Wyda dated April 14, 1986.

Mr. Logan: It has two paragraphs.

Mr. Bell: Yes.

Mr. Logan: Regarding the ?? retainer fee?

Mr. Bell: Yes. I will pause until everybody has that document before then. When did IDEA become aware that that letter existed?

Mr. Logan: I think right now.

Mr. Bell: All right. When did IDEA--

Mr. Logan: ??--We certainly have not seen that letter prior to this.

Mr. Bell: Specifically on or before the closing of this transaction which we have learned was April 18, 1986, but with certain documents like the subscription agreement executed on April 12, 1986, prior to those events, was IDEA aware of the content of paragraph one?

Mr. Logan: Of that--

Mr. Bell: Of the April 14 letter.

Mr. Logan: No.

Mr. Bell: If IDEA had been made aware of the content of paragraph one of that letter prior to closing, would it have affected IDEA's position as per closing?

Mr. Logan: I do not believe it would have affected our willingness to close the deal, that this would not affect the attractiveness of the business. We might have requested that this also ?? become part of the closing documentation.


Mr. Bell: For what reason?

Mr. Logan: Because we had requested, as part of our closing documentation, that these contracts be ??--

Mr. Bell: All right. Mr. Logan, in page 10, paragraph 17 of Mr. Macdonald's statement, there is reference to information received by you late May or early June, 1986. Is the information you received at that time that as reflected in paragraph one of the April 14th letter?

Mr. Logan: They differ in that this letter of April 14 does not seem to indicate the duration of the arrangement, whereas it was my understanding, in the conversation I had with Mr. Dobzinski that is reflected in item 17 on page 10--

P-1815 follows



(Mr. Logan)

~~does not seem to indicate the duration of the arrangement, whereas it was my understanding, in the conversation I had with Mr. Dobzinski that is reflected in item 17 on page, that it would be for two to three months.~~

Mr. Bell: Mr. Dobzinski is the source of the information to you at that time.

Mr. Logan: Yes.

Mr. Bell: How did that discussion come about?

Mr. Logan: It was only one item in the discussion we had. I cannot relate what all of the other items were. It was part of a discussion that we would have had relating to trying to do the subsequent investment in Wyda. It would be in the making of ??this in the course of those discussions.

Mr. Bell: What specifically did he tell you?

Mr. Logan: He told me that Mr. Caplan was shortly to be severing his relationship with Wyda, that they had discussed two alternatives, that Mr. Caplan would be paid, and Wyda still needed some assistance from Mr. Caplan over the next two to three months. We discussed two methods of payment, \$150 per hour or \$8,000 per month. Mr. Dobzinski had chosen the \$8,000-per-month alternative, that was the route he had gone and that that would go for two to three months.

Mr. Bell: Did he tell you why he chose that alternative?

Mr. Logan: Why he chose that alternative?

Mr. Bell: Yes.

Mr. Logan: No.

Mr. Bell: Have you got paragraph 17 before you?

Mr. Logan: Yes.

Mr. Bell: I must tell you one possible reading of that paragraph is that you were informed in late May or early June that Mr. Caplan was going to be paid \$8,000 per month for the next two or three months, that is, after late May or early June.

Mr. Logan: I believe I was given to understand that it was already in effect and that it was going to go into June or July. I did not relate a lot of significance to it, Mr. Bell.

Mr. Bell: Why?

Mr. Logan: Because I viewed it was a short-term arrangement. At the time of the closing, I learned what Mr. Caplan's compensation had been prior to our closing and leading up to it, and for his contribution certainly in the period of roughly January 31 to the time we finally closed this deal on April 18. He was a very valuable member of getting that deal done in terms of assisting Mr. Dobzinski as an adviser in structuring the deal. I was surprised

(Mr. Logan)

that he was, for that, receiving \$2,000 a month. I thought he was being desperately underpaid and that \$8,000 a month was more appropriate for what he was worth.

Mr. Bell: Did you indicate to Mr. Dobzinski during that discussion your approval of the \$8,000 per month payment?

Mr. Logan: Basically. He was telling me about it, I believe, essentially to ask, "Is that okay with you?"

Mr. Bell: What did you tell him?

Mr. Logan: I believe I said something to the effect of, "It sounds fine to me."

Mr. Bell: Did you have in fact, or did you believe you had authority to give that approval on behalf of IDEA?

Mr. Logan: I was the member on Wyda's board of directors. If it had had to come to the board of directors for approval, as a member of the board of directors, I had that authority to approve.

Mr. Bell: Which board of directors?

Mr. Logan: Wyda's.

Mr. Bell: Did you have authority from IDEA's to give that approval?

Mr. Logan: I believe I did.

6:20 p.m.

Mr. Bell: The next document is the subscription agreement, that is, tab 17. We will see how quickly we can do this. I am going to--

P-1820 follows



DII

(Mr. Bell)

~~... agreement that is tab 17, we will see how quickly we can do this. I~~
going to give you some general questions and you may want some time to confer but you can confirm that this really represents the deal with the appendices attached which were completed and executed as required by the terms of the deal.

Mr. Logan: Yes, I believe everything is in there, unless there is something gone through and, with your permission, it has been taken out.

Mr. Bell: It ain't a trick question. I just want to get tab 17 on the record because I have opposing documents, and I want you to confirm that the item 1 of the closing document is the subscription agreement.

Mr. Logan: That is correct.

Mr. Bell: And what follows in the subscription agreement is the completed and executed appendices which are found in tab 17, as and for the detail and the people that they are required from, correct?

Mr. Logan: Yes.

Mr. Bell: We do not have, for example, as an appendix to the subscription agreement, the specific January 31 Caplan agreement and the acknowledgement, but it is called for by the appendices and the terms of the subscription agreement, is that correct?

Mr. Phillips: No, just the list is called for in the subscription agreement and the document is presented outside the prescription agreement.

Mr. Bell: Correct, as schedule F.

Mr. Phillips: Yes, just the list.

Mr. Bell: My question is, in the context of the April 14, 1986 Caplan letter, and to the extent that it changes the January 31, 1986 agreement--are you with me so far--is there anything in any of the closing documents that is relevant to that change?

Mr. Phillips: Yes.

Mr. Bell: Can you point out what is relevant to that change?

Mr. Phillips: You do not have it. Having read that letter for the first time and looking at the date on it, it appeared that it happened between the subscription agreement of April 12, which was a Saturday, and the closing, which occurred on April 18, which was a Friday. I think April 14 was the day. When I read it it looks ?? as a change to one of the material contracts, which was the January 31 agreement.

As part of the closing on April 18, Wyda, like any other investing company, is prepared to present what we call a bring-down certificate, which basically says that the reps and warranties contained in the subscription agreement on April 12 are just as true on April 18.

Mr. Bell: Let me stop you there. This is a litigation lawyer talking to a corporate lawyer and I am treading water.

Mr. Phillips: In reverse.

Mr. Bell: Was such a document produced at the closing?

Mr. Phillips: The bring-down certificate, yes, it was.

Mr. Bell: Can you point to or identify where in the large closing documents that is?

Mr. Phillips: Tab 2, immediately in front.

Mr. Bell: I am sorry?

Mr. Phillips: Tab 2, immediately in front of tab 2. Certainly that is where it is in my book.

Mr. Bell: You do not--

Mr. Phillips: Tab 1, I am sorry. Immediately in front of tab 2.

Mr. Bell: I have a copy of the whole darn thing and I tried to save the province some trees and use some ??

Mr. Phillips: Did you find it? The last two pages of tab 2.

Mr. Bell: Is it called "Certificate IDEA Investment"? It is a certificate executed by Mr. Dobzinski by date, April 18, 1986?

Mr. Phillips: That is correct.

Mr. Bell: Where does this agreement call for reference to the April 14, 1986 letter, if I have expressed that right, and if I have not, tell me now I should express that question. Do you know what I am getting at?

Mr. Phillips: Are you ready for a small lecture?

Mr. Bell: Stay with me for just a moment.

Mr. Phillips: On page 11 of the subscription agreement.

Mr. Bell: Article 4?

Mr. Phillips: Article 4A.

Mr. Bell: I am sorry, I do not have it yet.

Mr. Phillips: Page 11.

Mr. Bell: Members, you have that at tab 17.

Mr. Phillips: Everybody has it.

Mr. Bell: Tab 17, 4A, conditions of closing. Tell me.

Mr. Phillips: 4A, IDEA shall be furnished with certificates of the company and ?? effect that the matters dealt with . . .



(Mr. Phillips)

~~shall be furnished with certificates of the company and the effect~~
~~that the matters dealt with in 101, namely the representation of warranties~~
are set out therein." There are representations and warranties in 101--

Mr. Bell: Let us just look at 101. Where specifically in 101?

Mr. Phillips: Page 6, for instance.

Mr. Bell: I want specific reference to what in 101 is relevant to that April 14th letter.

Mr. Phillips: I can give you a couple. Maybe there are more. Page 6, item 16, fifth line, "Each of the agreements listed in E is in full force and effect and unamended." Then we go to schedule E.

Mr. Bell: Take us to schedule E.

Mr. Phillips: Maybe you have it.

Mr. Bell: We have it in the subscription agreement.

Mr. Phillips: Item 2.

Mr. Bell: Hold it. Let us catch up to you, please.

Mr. Phillips: Schedule E does not have a page.

Mr. Bell: Schedule E is material contracts.

Mr. Phillips: Do you see the reference to 101.16 at the top, item 2?

Mr. Bell: Yes. Now, please, because you are talking to a litigant, 101.16 requires what in regard to item 2 of schedule E?

Mr. Phillips: Can I say it differently?

Mr. Bell: I nope so.

Mr. Phillips: Basically 101.16 says in schedule E we have listed all of the material contracts and, by the way, they have not been changed and they still work.

Mr. Bell: Yes.

Mr. Phillips: As part of the closing, which often happens some days later, we get him to set it out again, as of a new date.

Mr. Bell: Where do they say it again?

Mr. Phillips: In the certificate, which I have called the bring-down certificate, which again is the two pages you found at the very back of your tab 1 of the rat book.

Mr. Bell: In relation go tab 17.

Mr. Phillips: Does not appear.

Mr. Bell: So that we have a copy for the committee's purposes, the take-down certificate, as you have called it, or the take-down document.

Mr. Phillips: I say "bring-down."

Mr. Bell: Something down, all right. Where in the bring-down certificate, April 18, specifically or by reference, is the January 31, 1986 agreement referred to?

Mr. Phillips: It is not. The representation warranty regarding that agreement is 101.16--that is one of them, there is another one and 101.16 is, of course, part of 101 and this certificate says that all the reps and warranties in 101 are true and correct on the 18th.

Mr. Bell: From what you know now about the April 14 document, what is your comment about that representation as it relates to the January 31, 1986 agreement?

Mr. Phillips: It is incorrect.

Mr. Bell: If you had known that on or before the date of closing, what would you have advised your client?

Mr. Phillips: I would have informed the client of the deficiency and probably, depending on the reaction of the client, have either made a change in the certificate, accept a change, or back away from the closing, whatever were the instructions.*

Mr. Polsinelli: What was the arrangement ??

Mr. Chairman: Do you gentlemen have any difficulty in joining us again this evening?

Mr. Phillips: The correct answer is yes.

Mr. Chairman: Are there any insurmountable problems?

Mr. Phillips: We would be pleased to.

1830-1 follows



~~Mr. Chairman: Do you any incommensurable problems?~~

~~Mr. Phillips: We would be pleased to, I think.~~

Mr. Bell: Mr. Chairman, I require some direction as to the timing of Mary Ebert's testimony.

Mr. Chairman: To this stage six members have indicated an interest in asking questions. If they all take their 20 minutes, we are looking at about two hours. Counsel has not completed his questioning yet.

Mr. Bell: I must say I am very close.

Mr. Pope: I am going to be at least two in my own questioning.

Mr. Phillips: Two what?

Mr. Pope: Two cycles. We have 20-minute cycles.

Mr. Epp: I know that some of our questions will not take 20 minutes. I am not sure who you have on there.

Mr. Chairman: Would you like to have Ms. Eberts on standby in the event time is available?

Mr. Pope: In fairness to her, last week she indicated to counsel that she had a baby-sitting problem.

Mr. Bell: She has one today, she has more of a problem in the next two days, but I am not sure that qualitatively it is any different than today. In fairness to witnesses, if we are not going to get to them, they should know that at the earliest possible time.

Mr. Pope: We are not going to get through it tonight.

Mr. Bell: I require the committee's direction so that I can communicate that direction.

Mr. Chairman: We will advise her that she will not be required this evening.

The committee recessed at 6:32 p.m.

STANDING COMMITTEE ON PUBLIC ACCOUNTS

ALLEGED CONFLICT OF INTEREST

WEDNESDAY, JULY 2, 1986

Evening Sitting

Draft Transcript



STANDING COMMITTEE ON PUBLIC ACCOUNTS

CHAIRMAN: Runciman, R. W. (Leeds PC)

VICE-CHAIRMAN: Gillies, P. A. (Brantford PC)

Epp, H. A. (Waterloo North L)

Ferraro, R. E. (Wellington South L)

Gordon, J. K. (Sudbury PC)

Harris, M. D. (Nipissing PC)

Philip, E. T. (Etobicoke NDP)

Polsinelli, C. (Yorkview L)

Pope, A. W. (Cochrane South PC)

Smith, D. W. (Lambton L)

Wildman, B. (Algoma NDP)

Substitutions:

McGuigan, J. F. (Kent-Elgin L) for Mr. D. W. Smith

Ward, C. C. (Wentworth North L) for Mr. Ferraro

Clerk: Arnott, D.

Staff:

Fritz, H., Research Officer, Legislative Research Service

Bell, J., Counsel; with Shibley, Righton and McCutcheon

Peters, M., Associate Counsel; with Shibley, Righton and McCutcheon

Witness:

Eberts, M., Barrister and Solicitor; with Tory, Tory, DesLauriers and
Binnington

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON PUBLIC ACCOUNTS

wednesday, July 2, 1986

The committee met at 8:12 p.m. in committee room 228.

ALLEGED CONFLICT OF INTEREST
(continued)

Mr. Chairman: The standing committee on public accounts will come to order.

Miss Eberts would you mind coming forward, please, and being sworn in by the clerk.

Mr. Epp: She does not have to be sworn in.

Mr. Chairman: I have been advised that ??Glynnis Wright was sworn in. Mr. Armstrong was sworn in.

Mr. Bell: Okay. I think if one is appearing in the capacity of witness, and as with the other officers of the court in that capacity--anybody who is appearing as counsel to any of the witnesses--the swearing is not necessary. I have not been sworn in.

Miss Eberts: I would be happy to be sworn.

Mr. Bell: I have been sworn at, but I have not been sworn.

Clerk: Do you swear that the evidence you shall give to this committee ??acting the subject of the present inquiry shall be the truth, the whole truth, and nothing but the truth, so help you God?

Miss Eberts: I do.

Mr. Chairman: Thank you. Mr. Bell, are you ready to lead off?

Mr. Bell: Yes. Miss Eberts, would you state your occupation for the record please.

Miss Eberts: I am a barrister and solicitor in the province of Ontario.

Mr. Bell: I understand you are a partner in the law firm of Tory, Tory, Deslauriers and Binnington.

Miss Eberts: Yes, I am.

Mr. Bell: In Toronto?

Miss Eberts: Yes.

Mr. Bell: In connection with the matter of conflict-of-interest guidelines as they apply to ministers of the crown, you were retained at some time in 1985?

Miss Eberts: Yes, I was.


Mr. Bell: By whom were you retained?

Miss Eberts: I was retained by Mr. Peterson, who was at that time the--now shall I put it? He was the leader of the official opposition. He had just finished being the leader of the official opposition and he was in the period when he was waiting to see if he was going to form the next government of Ontario. I was retained by him in order to do certain things with respect to his whole caucus as part of the transition team exercise.

Mr. Bell: All right. In respect of the conflict-of-interest guidelines as they then existed, and as they now exist, what were the terms of your retainer?

Miss Eberts: I think it useful to begin by considering the...

2015 follows.



~~Mr. Bell: In respect of the conflict of interest guidelines as they then existed and as they now exist, what were the terms of your retainer?~~

Miss Eberts: I think it useful to begin by considering the situation in which that group found itself at the time. They were as I have said, waiting to see whether it would be possible for them to form the government. They did not have unlimited access to the resources of the civil service. So the machinery, if you will, that would have been available to a government in order to check for conflict-of-interest issues and problems, was not available.

One of the main things that I was asked to do was to look at the conflict-of-interest guidelines for this group of people and to do an exercise relating to conflict of interest with them that would more or less substitute for what the civil service might have done had they formed the government directly upon being elected.

Mr. Bell: More particularly, after you had satisfied yourself, or decided what the then existing guidelines required, you reviewed the particular circumstances of individual members and gave them advice as to their circumstances and the guidelines?

Miss Eberts: I was asked by Mr. Peterson to make myself available to individuals who desired to consult with me. The arrangement upon which I did so was that I could consult with individuals on a basis of confidentiality, as in I, you know--indeed, in a kind of solicitor-client relationship with them.

Mr. Bell: With respect to the Caplans--Mr. and Mrs. Caplan--can you confirm that you did confer with them and give them certain advice in connection with the guidelines?

Miss Eberts: Yes, I did..

Mr. Bell: Can you confirm that matters of confidentiality do not exist insofar as the matters you can disclose to this committee?

Miss Eberts: I have received from both Mrs. Caplan and Mr. Caplan a waiver of the solicitor-client privilege which protects the communications between themselves and myself, relating to conflict of interest. I have been authorized to relate to the committee the dealings I had with them.

Mr. Bell: Can you recall precisely when your retainer, in respect of the guidelines, began?

Miss Eberts: It was very shortly after the election.

Mr. Bell: In May of 1985?

Miss Eberts: Yes.

Mr. Bell: Is it fair to say that the first thing you did was to review the guidelines and available documentation and information at that time to satisfy yourself what the guidelines stood for?

Miss Eberts: There were several parts to what I did with respect to the guidelines. It was necessary to become informed about what the guidelines

under the previous government had been and so I elicited copies of the Davis guidelines and a copy of the material that had been distributed from the Cabinet Office to members of the previous government. I also talked with Mr. Wright in the Attorney General's office who had had the administration of those guidelines under his charge.

I did a literature review, if you will, of several sources to look at alternative models, and I also consulted with people who had been involved in the operation of the federal guidelines, based more or less from the private bar. I did not talk with anybody who was a civil servant administering the federal guidelines, but I did look to the private bar for their experience in relating to them.

As part of the transition team exercise, I discussed with several colleagues on the transition team, what should be the approach--whether it should be recommended to the government that they follow on a pro tem basis the Davis approach, or whether there should be an attempt made in this very narrow transition period to try to build up an alternative structure.

Mr. Bell: Was all of that which you have described done by you before you met with members of the Liberal caucus, and particularly the Caplans?

8:20 p.m.

Miss Eberts: Quite a bit of it was, but the consideration of any possible...

2020 follows



~~(b) (6)~~

~~...members of the liberal caucus, and particularly the Caplans?~~

Miss Eberts: ~~Quite a bit of it was, but the consideration of any~~
~~possible~~ amendments to the Davis guidelines was still under review when I met
with members of the caucus.

The way the process went, if you will, was that within the transition team discussions the decision was made not to recommend trying at that time to build up a whole big alternative structure, but to go off the Davis guidelines. There was some thought there might have to be some changes to them, so that consideration of what changes there would have to be went on more or less simultaneously with discussions I had with people, and they were told that the Davis guidelines were the status quo but that there might be some changes and as the areas where changes became more and more to be expected, they were also apprised of that.

Mr. Bell: Can you confirm that, in fact, happened with the Caplans?

Miss Eberts: Yes.

Mr. Bell: Now, I would like to just explore the process that you have described to date, with the documentation that I have received from you and your counsel, which the committee has in its material.

Members would you turn to tab N, as in Norman. We are starting with tab 1. Can you tell the committee what this document is?

Miss Eberts: This is a summary that I prepared and I had typed in my office of the Davis guidelines for cabinet. I used those for discussions with the other members of the transition team that were also involved in the decision as to whether we would try to go for a whole other new set of guidelines or whether we would use the old guidelines.

Mr. Bell: All right. On the second page of that document, item 3--I do not know whether you have got a copy of the current guidelines with you--

Miss Eberts: I have this black book here which I think is a copy of the exhibits of the committee--

Mr. Bell: If you look--just open up tab C--

Miss Eberts: Yes.

Mr. Bell: That is the current guidelines, with your two amendments--at least what it has been previously identified as by other witnesses.

Miss Eberts: Yes.

Mr. Bell: Do we agree on that?

Miss Eberts: I think so. It is rather strangely arranged in the copy that I have.

Mr. Bell: I agree.

Miss Eberts: The front pages, dealing with ministers' confidential staff and parliamentary assistants, look like the new guidelines, so called, but I have not had a chance to read the next ensuing pages. I will have to take your word for it that those are the new guidelines.

Mr. Bell: Okay. You will agree with me that what you have done on page 2 of this tab 1 document is to track exactly the first two and one-half lines of the bottom paragraph of page 1 of the guidelines. It is word for word.


Miss Eberts: That is right.

Mr. Bell: Okay. We can confirm that. What was your interpretation of the phrase "contractually involved" as they were found in the original Davis guidelines?

Miss Eberts: Well, in interpreting that phrase I did have resort to some conversations, or to a conversation, with Mr. Wright, when I went to talk to him about the way the guidelines had been administered under the previous government. It was his information to me that he took a fairly broad view of "contractually involved." Somewhere in the materials I have provided to you there are my notes of that meeting with him where he looked at that.

I, myself, just looking at the words, must take a fairly generous view of "contractually involved" because there are different kinds of arrangements with government that can be embodied or set in train...

2025 follows.



sh
(Ms. Eberts)

~~contractually involved, because there are different kinds of arrangements~~
~~with government that can be made in this way, by way of contract.~~ I did not as part of this exercise sit down and prepare an elaborate lexicon of every possible meaning of contractually involved, but my own view of it was that it was a fairly broad phrase.

Mr. Bell: Are you familiar with, and I know you are, section 10 of the Legislative Assembly Act that deals with certain conflict matters as they relate to members?

Ms. Eberts: I have had occasion to work with the Legislative Assembly Act. I am not right up to date on it.

Mr. Bell: In fairness to you if I can find it in this material, tab k, of the committee's material, and you do not have to turn to it, just let me read a part of section 10 to you. We have heard evidence from Mr. Wright already as to the scope of the phrase, "contractually involved" and the context of section 10. Types of contracts are referred in that section as, "For service, work, matter or thing."

Is that your understanding, Ms. Eberts?

Ms. Eberts: In the Legislative Assembly Act?

Mr. Bell: Section 10.

Ms. Eberts: That is the language of the act.

Mr. Bell: Is the scope of contracts as set forth in section 10 now or wider than the scope of the phrase, "contractually involved" as they are found in the guidelines?

Ms. Eberts: Let me give you an example of something that Mr. Wright told me he thought was involved in the phrase, "contractually involved." He provided to me in our conversation or ensuing from, I cannot remember whether he sent it to me or gave it to me on the spot. A couple of opinions that he had given to members of the other government at some point, he did not say when, are dealing with government programs. One of them as I recall, was something called the tourism redevelopment incentive program. It was a tourist incentive program. His opinion on that particular occasion was that something such as TRIP would be covered by the phrase, "contractually involved." Without giving it some further study, I would not be able to tell you off the cuff, whether something such as TRIP would be involved in section 10 or not. That is my information about what he thought was involved.

Mr. Bell: I think in fairness to you, I should complete the background material and information that you had available to you before we talk about what the guidelines mean. Can we turn to tab 2. You have referred already to parts of the minister's handbook that you received as background information. Can you confirm that tab 2 contains that very document or parts of the document you looked at?

Ms. Eberts: This, as I understand it, was a copy of the minister's or cabinet handbook that had been in use under the previous government. It was provided to me indirectly from the cabinet office as the thing that was put in the book for the guidance of ministers. That was one of the background documents that I had.

8

Mr. Bell: The last three pages of this tab, they sneaked in with these documents, starting "Task force on conflict of interest." Can you identify? I am sorry, it is not here.

Ms. Eberts: I was just going to say, they did not sneak in the few pages of the one I had.

Mr. Bell: Tab 3. Can you identify these pages?

Ms. Eberts: Tab 3, in the book that I have, is a set of handwritten notes. I made these notes in a conversation I had with Mr. Wright about the administration of the Davis guidelines.

Mr. Bell: Do you recall when that was?

Ms. Eberts: It was reasonably early in the process of my examination of the subject. Certainly it was before a meeting that Mr. Caplan and I had with Mr. Wright. I cannot give you a precise time.

Mr. Bell: The second page of those notes at the top, where you have in quotes, "A personal, beneficial interest." Can you explain what the notes are following that phrase?

8:30 p.m.

Ms. Eberts: Mr. Wright is telling me what has been the historical position about the administration of the guidelines. He says they have always applied on a case-by-case basis saying is there in fact a conflict. I have in here, what is the appearance? I am sure he must have said that to me. I do not recall it figuring broadly or largely in our conversation.

P-2030-1 follows



~~(Mr. Bell)~~

~~-- Can you explain what the notes are following that phrase?~~

Ms. Eberts: ~~Mr. Wright is telling me what has been the historical position about the administration of the guidelines. He says they have always on a case-by-case basis, saying is there in fact a conflict. It would be in here, what is the appearance. I am sure he must have said that to me. I do not recall it figuring broadly or largely in our conversation. What I took from the conversation was that the phrase, "Of personal beneficial interest" is a very broad or loose phrase that they would use to scrutinize each particular situation as it came along.~~

Mr. Bell: Going down that page. "They have been diligent about reporting changes." Who does that refer to?

Ms. Eberts: The ministers.

Mr. Bell: Saying that Mr. Wright does not get annual updates. Presumably from ministers?

Ms. Eberts: That is right. I think at that stage in my research has been consideration. I was asking him whether he had them file annually to show any changes over the last year. He said that he does not get annual updates. He did not want paperwork and he thought he would not have any more forms than were absolutely necessary.

Mr. Bell: Did you form any conclusions for your own purposes as for the nature and extent of paperwork that was required in such a process?

Ms. Eberts: In the course of my work it became apparent to me that there were at least, broadly speaking, two models for looking at conflict of interest. One was the Davis approach, the Davis/right approach if you will. It was fairly minimal. It is a lot of onus on ministers to report their changes. There is not a big secretariat to run it. The other one is the federal approach, where there is an office that is specifically charged with taking ministers and others through their paces, helping them set up their blind trusts, requiring regular filing and doing a lot of hands on work with the ministers. The creation of a big secretariat to run a conflict of interest system or, as one of the reports calls it, an office of public sector ethics, is in quite a contrast to the so-called Davis system.

It was plain to me that we did not have the time or the resources at that point to consider that option because the Peterson people were not yet even forming the government and the transition team could not do it. It was also clear to me that one of the directions of the future seemed to be the direction in which conflict of interest was moving, whereas in the direction of having a secretariat and a much larger apparatus to deal with conflict of interest measures.

Mr. Bell: Which process do you prefer?

Ms. Eberts: I think there are some disadvantages to the process of having the big secretariat. The main disadvantage is if you have a lot of very carefully, articulated and elaborated rules, if you have a big secretariat, you are really putting the emphasis on formal compliance. You might get people who are formally in compliance with the rules but who do not have much understanding of what their real obligations are. I think the big secretariat has a lot of advantages but it is essential even when you have a big

(Ms. Eberts)

secretariat to maintain the spirit and the understanding of what conflict of interest guidelines are all about.

My own personal view is that the federal system was maybe a little heavy on the machinery side and a little light on the understanding of what real conflict or interest measures were all about. That certainly was in my mind at the time. Over the long haul, I think it is quite useful and quite helpful to have a large secretariat instead of basically a one person operation.

Mr. Bell: The third last line on this page I am not able to make out your note. Can you read it to the committee.

Ms. Eberts: He is talking again the system that he preferred of having the ministers responsible for reporting their changes and for making the filings. He says, "If you put the obligation on them and they are caught, it is better for the Premier." If the Premier runs the system or has the charge of the system and something fouls up, according to him that was bad for the Premier, but if it is the minister's fault, the Premier could distance himself from the minister. That was what I understood him to be saying.

Mr. Bell: Page 3. About a third of the way down in quotes again you have got "contractually involved." You made reference to this already--

P-2035-1 follows



(~~Ms. Eberts~~)

~~and he says, if you put the obligation on them and they are caught, it is better for the Premier. If the Premier runs the system or has the charge of the system and something falls up, according to him, and now it is bad for the Premier, but if it is the minister's fault, the Premier could distance himself from the minister. That is what I understood him to be saying.~~

Mr. Bell: Page 3, about a third of the way down in quote again, you have contractually involved. You have made reference to this ~~as part~~ as part of your discussions with Mr. Wright at this time. Can you give the committee, in your words, what you understood his interpretation at that meeting of the phrase "contractually involved" to be?

Ms. Eberts: The note I have underlined says it means a grant, according to Glenus Wright, and he takes as I said a very liberal view of "contract." That is why he told me he thought it covered a lot of subjects. Then this little line that goes down so you are saying you cannot, as a minister, receive a benefit. This is where the opinions that I told you about a few moments ago come in, where he provided me with copies of opinions that he had given to people saying that the prohibition against contractual involvement prevented them from taking advantage of certain programs.

Mr. Bell: Did he give you any scope to the word "benefit?"

Ms. Eberts: No.

Mr. Bell: What did you understand the scope of the "benefit" as used by him to be?

Ms. Eberts: We did not actually get into a very technical discussion about "benefit" at that stage. I was getting a working understanding, if you will, of how he was running the guidelines and we really did not canvass it in any depth.

Mr. Bell: From your understanding of Mr. Wright's interpretation of that phrase at this meeting, ??resident vestment by a crown corporation in a private Ontario company of money included in the phrase "contractually involved?"

Ms. Ebert: He did not actually talk about that particular example. he gave me a couple of examples and he talked about the situation of a grant and that was about it.

Mr. Bell: Did you talk about any examples that were close to the example I just gave you?

Ms. Ebert: No. I have provided you with the opinions that he gave me. They are in the material.

Mr. Bell: We will look at those in a moment. Would you turn over two pages, the top which is "help individual."

Ms. Ebert: Yes.

Mr. Bell: The next line, "government interested in not creating impression of any conflict of interest." What do you mean by that note.

Ms. Ebert: When I reviewed these notes, I could not actually recall whether that was something we had discussed together or something that he had told me. It is a fragment and I cannot put it in context. I am sorry.

Mr. Bell: All right. Under "guidelines that work very well," there are two points. Is it fair to say that as of the date of this note there were some alternatives you might consider as for amendments?

Ms. Ebert: As I understood it, these were things that he had been mulling over in the course of his work in administering the guidelines. I asked him if he were going to change the guidelines in any way, how would he change them, because he told me they had worked well up to that point. These were the things he identified as possible changes. One was developing some sort of blind trust arrangement for private companies, and also creating an exemption like ??llm in the Legislative Assembly Act for cabinet ministers and parliamentary assistants. That is the one that clicks in where grants are even-handedly available to members of the public, as I understand it.

Mr. Bell: All right. Then the next note, is it these do not deal with Legislative Assembly Act?

Ms. Eberts: Yes.

Mr. Bell: What is "these" that you are referring to.


Ms. Eberts: I am sorry, I cannot recall what that was about.

Mr. Bell: The last page of this note refers to the nature and extent of the relationship between Mr. Wright and those ministers whom he gives advice to or confers with?

8:40 p.m.

Ms. Eberts: He has them fill out a form-

P-2040-1 follows



~~(Mr. Bell)~~

~~extent of the relationship between Mr. Wright and those ministers whom he gives advice to or confers with?~~

Ms. Eberts: He has this fill out a form that is sent in to him. He gets the full report and he told me that nobody else has access to it except for him. He then sends on to the Cabinet Office for eventual filing in the office of the Clerk of the Legislative Assembly the portions of the material that are required to be disclosed under the guidelines. My understanding from this was that, apart from what is required to be disclosed publicly, he would keep other material confidential.

Mr. Bell: All right. Would you turn to tab 4 and you can confirm that this is one of the sample opinion letters that Mr. Wright sent to you?

Ms. Eberts: That is right.

Mr. Bell: Can you comment on the last paragraph on the first page of this document, is that what you took to be the scope of his interpretation of the guidelines?

Ms. Eberts: This was a letter that was given to me to show how he was interpreting this phrase "contractually involved."

Mr. Bell: Did you discuss this opinion with him at all?

Ms. Eberts: No, I did not.

Mr. Bell: Tab 5, can you confirm that is the second sample opinion that he gave you?

Ms. Eberts: Yes.

Mr. Bell: All right. On the second page of that memorandum, the first paragraph, he gives the person to whom this letter was sent his definition of "personal beneficial interest?"

Ms. Eberts: Yes.

Mr. Bell: How does that compare with your interpretation?

Ms. Eberts: My approach to looking at this "personal beneficial interest" phrase in the guidelines was the approach of a trusts lawyer, to say basically, is there something that flows through the transaction that is going to be not just a benefit, but also constitutes an interest, not an ephemeral benefit in other words. My interpretation was a little more wishy-washy and less categorical, not wishy-wash, general.

Mr. Bell: Was it broader than his?

Ms. Eberts: He talked about classes of people here; classes that were intended to be caught, classes that were not intended to be caught. I tended not to look at it with regard to classes of people who would be caught. I tended to look at it, in each individual case, saying, "Does this situation here create a personal beneficial interest for the individual that I am looking at right here," never mind classes or categories of people, but what is the situation, vis-à-vis this person."

Mr. Bell: When we look at the guidelines as you have amended them, we will get to your interpretation in that respect in more detail.

Tab 6, handwritten notes starting "areas where additional prohibition is necessary." Can you tell the committee what these notes are?

Ms. Eberts: These are notes that I prepared prior to a discussion I had with other members of the transition team about whether we should take on the Davis guidelines exactly as they were or with some changes or whether we would try to go to another big system. These are some of the questions that arise if you are looking at creating a more elaborate set of guidelines than the ones that had come to be known as the Davis guidelines. The heavy black material on the right is my own handwriting and my own notes that I used to prompt me in this discussion. The thinner writing on the left of the front page are just some notes I made in the course of the discussion, ones I could carry away and think about.

Mr. Bell: Can we go to tab 7? Are we still at the stage where you are formulating your own views and conclusions as to what these guidelines are and what they should be?

Ms. Eberts: Yes. This is another memo that I did in that process.

Mr. Bell: Are we still at the stage before you met with the Caplans?
P-2045-1 follows



~~Ms. Eberts: Yes, this is another memo that I did in that process.~~

~~Mr. Bell: Are we still at the stage before you met with the Caplans?~~

Ms. Eberts: Yes, I believe so.

Mr. Bell: Would you stop me when we get to that stage.

Ms. Eberts: Yes.

Mr. Bell: What is this document?

Ms. Eberts: This, again, is something that I prepared in my own office. It was typed in my own office as a thinkpiece for myself: if we are going to go to another more elaborate conflict-of-interest system, more along the lines of the federal model, what would be some of the implications of going into that system? What would be some of its elements?

Mr. Bell: Did you make the views expressed by you in this document known to the government?

Ms. Eberts: This document was prepared by me as an ??ad memoir or whatever for my discussions with the transition team. I never discussed this document or these views directly with people in Mr. Peterson's office.

Mr. Bell: On page 2 there is a suggestion that the style be a definite departure from the perceived position of the previous government in the present federal government. Do you know if any part of that was adopted by the current government as its policy as to what the guideline process should be?

Ms. Eberts: The process, of which this document was a part, ultimately produced the recommendation that we did not have the resources in the small transition phase to set up a big system of guidelines and a big secretariat to run it. This document as a document and the ideas in it never really got to the level of Mr. Peterson's office.

Mr. Bell: On page 2, you list some elements of the approach, i.e. the number two approach. Were any of those elements adopted and utilized by you in your discussions with members, specifically the Caplans?

Ms. Eberts: May I take the first part of your question first about people generally? I did some lectures on the Legislative Assembly Act and on the Davis guidelines as they were. It is fair to say that an element of my lectures is point two on that page. What I stress with people is that when they are members of the opposition, the public and the press do not care much about their lives. They do not care much what they do. They are not news. However, if they form the government, then things that they had never thought of newsworthy or interesting are seized upon. They should, therefore, start looking at themselves as if they had somebody sitting on their shoulder all the time, saying, "You are in the government now; you have to think differently." That was certainly an element of my approach. That is the only one that got carried forward.

Mr. Bell: You have some nods of agreement from people in this room that have been there. The second part of my question was, were any of these elements adopted and utilized by you in your discussions with the Caplans?

Ms Eberts: My discussions with the Caplans were fairly specific and they did not deal at this level of generality or approach.


Mr. Bell: Tab 8, what is this document?

10:50 p.m.

Ms. Eberts: This is again something that I prepared for the discussions in the transition team. Reviewing the contents, I think it represents one of the last stages of my thinking on conflict of interest and where we should be recommending that they go, basically saying that the Davis guidelines might not be perfect, but as interim measure, they could be used and they best fit in with what I understood to be some of the elements of the NDP/Liberal accord. There is one, for example, dealing with civil servants and what level of political activity they could have. I knew, from following the press at that time and from other information that I had, that that matter would likely be submitted to the House.

It seemed to me at that time that it was not unlikely that the question of a bigger conflict of interest system, one with a more articulated--

P-2050 follows



(Ms. Eberts)

-- they could be used and they best fit in with what I understood to be some of the elements of the NDP/Liberal accord. There is one, for example, dealing with civil servants and next level of political activity civil servants could have and I know from following the press at that time and from other information that I had that that matter would likely be submitted to the House.

It seemed to me at that time that it was not unlikely that a question of a bigger conflict of interest system, one with a more articulated secretariat and so on, might also be submitted to the House. That was part of the reasoning behind going with a simpler interim system.

Mr. Bell: Tab 9, credit disclosure requirements; what is this document?

Ms. Eberts: If I can take you back to another document. We have already looked at it. Under tab 2, there is a set of forms: summary of real property owned in Ontario, summary of real property and mortgages and so on. As part of the exercise that I did with members of the caucus, we had them fill out those forms. As you may recall from what I said before, the Peterson group did not, at that time, form the government and did not have access to the civil service process that Mr. Wright had used with prior governments to get them to fill out these forms.

I had them fill out the forms and I checked them over as an interim measure to see if there were any problems. This disclosure-requirements page is a front page to the forms that I gave them to fill out. The approach that I took was to say, "At some point, all MPPs might have to fill out these forms and right now we want you to fill them out." The statement there is that the information in the forms is requested of each caucus member and will be confidential from all but the Premier and his immediate advisors at this point. In reviewing those forms, I was treating them as confidential and did not disclose them, except to the extent of-- The best analogy is that of the House physician.

This set of materials was distributed to members of the caucus at a time when Mr. Peterson was considering whom he should put in his cabinet. On the basis of those forms, I was in a position to say whether there were any problems with any particular person in a particular ministry because of landholdings or whatever. Once that exercise was finished, I sent the forms back to the people who had filled them out.

Mr. Bell: We know that Mrs. Caplan was appointed to the cabinet. We assume that she passed muster to the extent of this process?

Ms. Eberts: I did review forms with her and I sent them back. She did, at that stage, look okay to me.

Mr. Bell: Would you turn to tab 10, please. Before we get to this document, I want to get, as a background to your discussions with the Caplans, what were your guidelines to them. Let me lead you in a series of questions. Had the amendments to the guidelines not yet been finally formulated and included in the guidelines?

Ms. Eberts: That is correct.


Mr. Bell: Had you formed certain conclusions as to the two amendments that were ultimately incorporated into the guidelines by the time you met with the Caplans?

Ms. Eberts: The decision had been taken to go with the Davis guidelines at that point and it was beginning to seem clear that those two amendments that were ultimately finalized would be made. The discussions I had with them were on the basis that, "Here are the Davis guidelines, you are going to be subject to these, but it is likely that there will be changes in these two areas."

Mr. Bell: Did you specify to the Caplans, to your satisfaction, the substance of the two amendments that were ultimately incorporated into the guidelines?

Ms. Eberts: At the time that I was discussing things with them, every i had not been dotted and--

P-2055 follows.



(Mr. Bell)

~~... substance of the two amendments that were ultimately incorporated into the guideline to the Caplans?~~

Ms. Eberts: ~~At the time that I was discussing things with them, I do not think that every "l" had been crossed and every "t" had been crossed about which amendments would be made. It was fairly clear what areas they would come in, namely in the private companies line trust area and also in the area of contractual involvements as described on the top of page 2 of the guidelines, what I call the Ontario health insurance plan exemption.~~

Mr. Bell: You are talking about the exclusionary formula?

Ms. Eberts: Yes, but that was not worked out in real precision at that point, that it looked as if we were going in that direction.

Mr. Bell: How about the substance of the exception, had that been worked out and did you explain the substance to the Caplans?

Ms. Eberts: I do not think in an elaborate detail. The position that I was in at that time was, as this transition process was going on, it was becoming clearer that Mr. Peterson would form the government, it was becoming clearer that the machinery of the civil servants would be available to do the conflict-of-interest reviews in a formal way, the way they had been done with the previous government. What I was doing at that stage was the interim process. I expected, and I think everybody expected that, at the appropriate time there would be a hand-off from the informal process to the formal process. They certainly knew that transition or that shift was going to take place.

Mr. Bell: What was the process, if any, available to soon-to-be-ministers of the crown, including Mrs. Caplan, to be made aware of and to understand the nature and extent and the expectations of the two amendments?

Ms. Eberts: The people in ??process who wanted to avail themselves of this service, were told by Mr. Peterson that they could have discussions with me and that they would be discussions on a confidential basis. I then met with anyone who indicated an interest in doing so. At the outset of the meeting I told them that if they had any particular questions or problems about their own situation, that I would treat anything they told me in confidence and that they could then disclose anything that was troubling them, either in light of the Davis guidelines or in light of the emerging, evolving information about what the guidelines might wind up being.

Mr. Bell: I do not think I made myself clear. As and when the guidelines, as amended, were issued, and we know from the chronology and witnesses it was some time mid to latter part of September 1985, what was the process in place, if any, for then ministers of the crown, including Mrs. Caplan, to have explained the nature, extent and the obligations required by the two amendments?

Ms. Eberts: Sorry, I misunderstood your question.

Mr. Bell: It is all right. It is probably me. It is late in the day.

Ms. Eberts: By the time the changes had been formally inserted into the guidelines, I was, in essence, out of the process. I had been there just in the interim phase. The conflict-of-interest guidelines were being administered by Mr. Wright's office. The cabinet ministers were consulting with Mr. Wright just the way cabinet ministers in the previous government had consulted with Mr. Wright.

Mr. Bell: If you know, was there anything put in place wherein ministers were informed that they were expected to review the amendments with Mr. Wright?

Ms. Eberts: As far as I understand the process, there was developed by Mr. Wright at that time, i.e., the end of August and the month of September, a set of materials that he sent to cabinet ministers, that is the Peterson government version of this document 2 that was entered in my materials, the letter to ministers and accompanying material.

Mr. Bell: Are you aware of the material that Mr. Wright made available to the committee and which forms part of the committee record?

9 p.m.

Ms. Eberts: I have not seen that material.

Mr. Bell: But in any event . . .

2100-1 follows



~~Mr. Bell: Are you aware of the material that Mr. Wright made available to the committee and which forms part of the committee records?~~

~~Ms. Eberts: I have not seen that material.~~

Mr. Bell: ~~I have seen it~~, I take it that there was a comparable compendium of documentation prepared for the new ministers after the date in June when they were all sworn in, which incorporated and referred to in some way the guidelines as amended?

Ms. Eberts: That is my understanding.

Mr. Bell: Have you seen that compendium of documents?

Ms. Eberts: No, I have not. By that time my role in this process had ended.

Mr. Bell: If you have not seen it, you do not know what is contained in it as for the amendments or explanation or interpretation of the guidelines?

Ms. Eberts: No.

Mr. Bell: With that background can we look at tab 10, and can you tell us what these two pages of your notes are?

Ms. Eberts: These two pages are the notes that I took in a meeting that I had with Mr. Caplan and Mr. Wright during the transition phase. This is before Ms. Caplan was put into cabinet. It was before Mr. Peterson formed the government. It was part of the transition exercise. I think the way this came about was that Ms. Caplan availed herself of the opportunity to come and talk to me about the guidelines as they then stood.

Mr. Bell: Mr. or Ms. Caplan?

Ms. Eberts: Ms. Caplan. She and I had a conversation in which she told me some information about her own holdings and she told me, in fairly summary form, that her husband is a business consultant and that the usual form in which his business activities are carried on is that he takes equity in companies and he finds them capital. On that basis it was decided that I should talk to Mr. Caplan and get more information about his activities, and he and I wound up meeting with Mr. Wright.

Mr. Bell: You are too good a witness. You answer the question before I can even get to it. You have already told us that Ms. Caplan's meeting occurred before Mr. Caplan's meeting.

Ms. Eberts: Yes.

Mr. Bell: I want to set some chronology. Mr. Wright's note reflects the fact that the meeting with Mr. Caplan was on June 24, 1985. Are you comfortable if we put that same date on this note?

Ms. Eberts: From looking at Mr. Wright's notes, and indeed I have looked at his notes, although not his other material that he provided, I think his notes are from the same meeting as my notes.

Mr. Bell: Can we put June 24 on the top of your notes?

Ms. Eberts: Well, yes.

Mr. Bell: Prior to that meeting when did you meet with Ms. Caplan?

Ms. Eberts: I cannot be sure. It was not very long before that. At the most it was a few days.

Mr. Bell: Did you explain to her what the Davis guidelines meant?

Ms. Eberts: It was quite a brief meeting. There had already been a briefing that I did for caucus members on the Legislative Assembly Act and on the Davis guidelines. It was a talk.

Mr. Bell: Was she in attendance at that time?

Ms. Eberts: I believe she was. I do not have a precise recollection. I believe she was. I did not cite chapter and verse and get very technical in that meeting. It was to flag for them that they now had to think differently and that I was available to talk to them if they wished. She followed up on that and came to talk to me.

Mr. Bell: Could you undertake to advise the committee, through me, when that meeting with the caucus occurred when you gave the explanation?

Ms. Eberts: I cannot recall when it was.

Mr. Bell: You cannot refer to a diary or anything to help you?

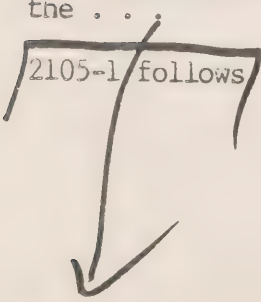
Ms. Eberts: No. I do not have a precise recollection and I would not have any notes of it.

Mr. Bell: When you met with Ms. Caplan, as far as you were concerned, did she appear to understand what the obligations and restrictions were for the Davis guidelines?

Ms. Eberts: As I said, it was not a very long meeting. We talked mostly about her own matters, her own holdings, and she seemed to understand with respect to her own holdings what her obligations were. I think she also understood enough to ask about Mr. Caplan because of the nature of his business. She did not get into a very big discussion about Mr. Caplan. It was decided it would be better for Mr. Caplan and I to meet.

Mr. Bell: Is that what you understand to be one of the purposes of the . . .

2105-1 follows



~~Because of the nature of his business, he did not get into a very big discussion about Mr. Caplan. It was decided it would be better for Mr. Caplan and I to meet.~~

✓ Mr. Bell: ~~Is that what you understand to be one of the purposes of~~
arranged meeting with Mr. Caplan?

Ms. Eberts: Yes.

Mr. Bell: Was anybody else in attendance other than you, Mr. Caplan and Mr. Wright at this meeting?

Ms. Eberts: Not that I recall.

Mr. Bell: Are you able to confirm from this note on page 1, tab 10, that everything on that note was provided to you and Mr. Wright by Mr. Caplan?

Ms. Eberts: I think it was. Just from reviewing the contents. Mr. Caplan was the only one in the position to provide this information.

Mr. Bell: At the bottom of the page starting with, "Arrangements by Wyda" did he specify what the amounts and percentages were that you refer to?

Ms. Eberts: No, he did not specify the amount which comes under, small monthly amount to defray expenses. I think over the page we have a note that we are talking five per cent of the equity of the company. He told us that Damaza would receive a percentage of the finance he raised and a percentage of the equity in the corporation, that is in Wyda, and then five per cent of the equity in the corporation.

Mr. Bell: Was it your understanding as of that date, and this is pre Liberal government.

Ms. Eberts: That is right.

Mr. Bell: June 26?

Ms. Eberts: I do not think Ms. Caplan was in the cabinet at that stage.

Mr. Bell: I am informed that June 26, was the date the Liberal cabinet was sworn in. Technically, this is still opposition time. Was it your understanding from Mr. Caplan's explanation that if the source of funding came from the provincial government or one of its crown corporations that he would receive remuneration on the basis of that specified at the bottom of page 1, the top of page 2?

Ms. Eberts: That was my understanding at the time. We did not look at any contractual documents or any instruments that set out in detail the relationship between Wyda and Damaza. He talked about approaching private sources of funding, the federal government and Ontario sources. He talked about approaching IDEA and ODC. Then he talked about the nature of his remuneration. My inference from what he said was that the arrangement at that time was if he got Ontario money he would take a share of that money and an equity in trust in the company.

Mr. Bell: On page 2, a third of the way down, do I read that correctly? "Provincial one third to two thirds?"

Ms. Eberts: Yes.

Mr. Bell: Then you track down \$4 million. What does that mean?

Ms. Eberts: I am sorry, I do not know what that means. I cannot recall.

Mr. Bell: Immediately below that he identifies the sources, gives the presentation, and he approaches and normally negotiates with the sources?

Ms. Eberts: Yes.

Mr. Bell: Under that you have written, "Financial consultanting." Does that represent his explanation of his financial consulting services that he was then providing or intended to provide to Wyda?"

Ms. Eberts: That is my understanding of what he said.

Mr. Bell: Do I take it that everything down to the line ending, April 30, 1985 represents your notes of that which Mr. Caplan told you and Mr. Wright?

Ms. Eberts: Yes.

Mr. Bell: What does everything below that line refer to?

9:10 p.m.

Ms. Eberts: I think that those notes are my notes about the discussions that started to take place then. Mr. Wright and I coming back to Mr. Caplan, saying: "Look, here is our preliminary sense of this arrangement." Arrangement with the present client Wyda. "Receiving equity might be sensitive." That sounds like something that we told him. We told him that Elinor Caplan would have to get right out of the company, that is right out of Damaza. I recall that as an element of it. Then the element in the--

P-2110-1 follows



(Ms. Eberts)

~~Something that we told him we told him that Elinor Caplan would have to get~~
~~right out of the company, that is right out of Canada. I recall that as an~~
~~element of it. The element in an oblong shape, withdraw his only option. We~~
told him in that meeting as I recall, that the arrangement whereby he would go
to Ontario sources and take an interest in the company and take a percentage
of the money was not acceptable. He could not do that. He would have to get
out of that arrangement. We did not tell him he would have to get out of that
arrangement vis-à-vis sources of funds from the federal government or private
sources. The withdrawal here was from the Ontario side of things.

We also told him in that meeting that his proposal to be the front man,
to go and deal with companies was not a good one as far as Ontario money was
concerned. He should not go and make the proposal and do the negotiations. He
could not be on the front line.

The other part of this note at the bottom where it says, "Prepare to do
whatever is necessary, Elinor to sell." That is my recollection of his
feedback to us. He was saying, "I will do whatever is necessary to be
straight."

Mr. Bell: What does that mean?

Ms. Eberts: Whatever is proper, whatever is necessary to comply with
the guidelines, he would do it. Certainly the information was there that Ms.
Caplan would get out of her interests.

Mr. Bell: Was it your view, whether or not expressed to Mr. Caplan
at that date, that the arrangement that he described to you would not be in
compliance with the guidelines?

Ms. Eberts: Yes.

Mr. Bell: Did you make that known to him then?

Ms. Eberts: I believe I did.

Mr. Bell: Did he as far as you concern appear to understand that
advice?

Ms. Eberts: I believe he did understand it.

Mr. Bell: Can you flip to tab 10a. Can you confirm that is a copy of
your letter to Ms. Caplan, July 8, 1985?

Ms. Eberts: That is my copy, yes.

Mr. Bell: What was your purpose in writing that letter to her?

Ms. Eberts: I had at that time had a discussion with her and a
discussion with Mr. Caplan and Mr. Wright. I had also reviewed this form that
she had filled out as part of the exercise, that I had asked her to fill out.
I was sending her this letter to tell her what they should do in order to be
correct, in order to be on side as it were. Most of these matters we had
already discussed. This letter was a confirmation and a follow up, a check
list if they wanted to use it as such.

Mr. Bell: Can we clear something up in the first small paragraph. What you refer to what in a completed sense are the two documents specifically tab 2 and tab 9 of this part that you previously referred the committee to?

Ms. Eberts: Yes.

Mr. Bell: The only difference is that it was completed by her and returned by you to her.

Ms. Eberts: Yes.

Mr. Bell: Can we agree as for the next paragraph that right down to the sentence that end, "would not offend them." is not relevant for the purposes of the issue that this committee is considering?

Ms. Eberts: I believe so.

Mr. Bell: You are talking about the guidelines apply to minor children therefore children who have reached the age of majority are not covered by the guidelines.

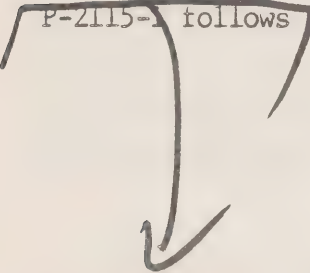
Ms. Eberts: Right.

Mr. Bell: Next. The next sentence. Are you referring to the advice that you gave to Mr. Caplan during your meeting that you have previously described to us?

Ms. Eberts: I am referring to the advice that Mr. Caplan should not be the front person, make the front line contact with agencies of the Ontario government.

Mr. Bell: You use the phrase on the fourth line of this sentence that--

P-2115-1 follows



~~with agencies of the Ontario government.~~

Mr. Bell: ~~the phrase on the fourth line of this sentence,~~
"contact would present difficulties." What do you mean by "present difficulties"?

Ms. Eberts: The phrase is a general one. If I can cast my mind back a year, I would not say that it would necessarily offend the guidelines, but part of what I regarded as my role was to give them a little counsel about what might be smart and what might not be smart. I was saying that it would not be smart for the spouse of a cabinet minister to go as the front-line representative looking for Ontario government money?

Mr. Bell: Even if he were not to take an equity in the client's benefit or sought-to-be benefit.

Ms. Eberts: That is right. That had been discussed with Mr. ??Paton, as I told you, at the meeting.

Mr. Bell: Is the phrase "present difficulties," in the context of that sentence, equal to not comply with the guidelines?

Ms. Eberts: I think I intended my remarks at that stage to be broader than the simple issue of whether they would comply with the guidelines or not.

Mr. Bell: But you were clearly saying whatever that means, your advice is not to do it?

Ms. Eberts: That is right.

Mr. Bell: And he understood that advice at the meeting.

Ms. Eberts: I believe so.

Mr. Bell: Was the phrase you used, "not to be the front man"?

Ms. Eberts: Yes.

Mr. Bell: All right.

Ms. Eberts: Front-man, contact person or whatever.

Mr. Bell: And you said, "Do not do that," but do what?

Ms. Eberts: Be in the back room.

Mr. Bell: All right. Can we examine what you meant by the scope of that advice. Does "be in the back room," as far as you are concerned include any discussions with the agency of the Ontario government, from whom the client was seeking capital?

Ms. Eberts: The way I would look at it, on the basis of what he told us, would be his usual role in a situation like that, that is, he would develop the proposal. As I understand what business consultants do, they take a proposal; they make a presentation; they have charts; they have this, that

(Ms. Eberts)

and the other thing. They are actually the first line of contact for the client with the agency. I told him that it would not be suitable for him to do that.

There are various other things that a person can do, such as preparing financial statements; being a quarter-back; "Oh well, why do you not go here?" or "The source of funds is over there." That would not be so visible. That was what I was suggesting, that he not take a visible role.

Mr. Bell: Did what you were suggesting contemplate any form of direct contact with the government agency from whom capital was being sought?

Ms. Eberts: Not in a front-line role. As these relationships evolve, sometimes the company will, even if a proposal had been made by somebody else and the work was all being done by someone else. It might be that in the course of a long-term relationship somebody would have to go directly to him on one or two occasions to get specific information which only he could provide. If he were just doing that sort of limited responsive role, I saw a difference between doing that and taking a front-line contact role.

Mr. Bell: How about prior to the approval of capital?

Ms. Eberts: I am sorry.


Mr. Bell: How about an attendance by Mr. Caplan with representatives of his client at a meeting with the governmental agency wherein discussions and negotiations as for the financing occurred? Is that within the scope of your advice?

Ms. Eberts: You are talking about events which post-date my involvement with this situation.

Mr. Bell: I am just trying to understand what the scope of your "thou shalt not" was.

9:20 p.m.

Ms. Eberts: The best way of answering that is to go back to a note that I made of a conversation. He identified the sources he told me and...
P-2120-1 follows



He identifies the sources, he tells me, and he does the presentation, he approaches and normally negotiates with the sources. This is a very public front-line, extensive role. It is that, I was telling him not to do.

Mr. Bell: The next sentence in this tab--the ??eighth letter--the advice that Mr. Caplan is recorded as giving you that he will sever the relationship between Damaza and its present client, Wyda, what did you understand severing the relationship to mean?

Ms. Eberts: We had discussed up to that point the relationship whereby he would take a percentage of funds raised and also an equity in the corporation, and he said that he would not do that. That was the relationship we discussed, and that was the one, as I understood it, he told me would sever.

Mr. Bell: On the second page, the last paragraph, is an invitation to Mrs. Caplan, that if you could be any assistance--in this context presumably that you have set forth in the letter--do not hesitate to call. Did she call subsequently?

Ms. Eberts: No.

Mr. Bell: Did Mr. Caplan call subsequently?

Ms. Eberts: No.

Mr. Bell: Did you have any direct communications, other than this August 6 letter we are going to look at shortly, with either of the Caplans after this date?

Ms. Eberts: No.

Mr. Bell: Can we turn then, so this letter will be in its proper context, to tab 15, being the August 6 letter.

Ms. Eberts: Yes, I have it.

Mr. Bell: Did you receive this letter, Ms. Eberts, on or about its date?

Ms. Eberts: I did. It was in my in-basket one day when I went into my office.

Mr. Bell: Did you review it at that time?

Ms. Eberts: I did. I looked at it.

Mr. Bell: Did you take any steps as a result of receiving this letter and reviewing it?

Ms. Eberts: No. By that time, except for finishing up the changes to the guidelines and relating with Wright in that respect, I was basically out of that conflict-of-interest review process I had done as part of that transition team. Mr. Peterson had formed the government, and my understanding was that conflict-of-interest matters would now be dealt with in the regular way through Mr. Wright's office. I took this letter and its appearance in my office as a courtesy from the Caplans to me just telling me where things stood.

Mr. Bell: Does the first sentence of that letter fairly set forth the advice that you gave him as for being involved in contacting or negotiating with any Ontario ministry or agency?

Ms. Eberts: I think it relates back to the information that he gave us at that meeting about what he saw his role to be, namely, making the contact with the agencies, making the proposal and doing the negotiations.

Mr. Bell: Did you form any conclusions about what the next sentence meant, when Damaza attempted to withdraw from its engagement with Wyda Systems?

Ms. Eberts: I saw the phrase that Damaza would continue with Wyda on an internal basis only, with no contact whatsoever with any Ontario government body, as again following along the lines with what we had told them, that their sort of back-room role or a quarter-back role would be acceptable. There would not be visibility there, and seemed reasonably consistent with that.

Mr. Bell: Did you conclude that his description of what he had attempted to withdraw from to be any wider than that which he had indicated to you or you had advised him at the June 24 meeting that he should sever?

Ms. Eberts: I am sorry, I did not quite catch that.

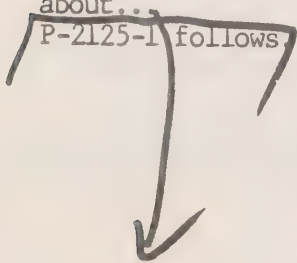
Ms. Bell: Did you take the first part of this sentence to mean anything more than that which you had discussed at your June 24 meeting as for severing a relationship?

Ms. Eberts: What we had discussed was severing the one that he had described.

Mr. Bell: Yes.

Ms. Eberts: That seems to be reflected in the first paragraph here because he says that, "the fee arrangement has been ??changed to a fixed fee for service with no contingency fee or equity in the company." He also talks about...

P-2125-1 follows



...of equity in the company. ~~He also talked about~~ dropping a front-line role. It seems to be reasonably consistent with what we told him.

Mr. Bell: Can we talk about the guidelines with the amendments? Can you, with whatever is available to you, get pages 1, 2 and 3 of the guidelines, as amended? We are going to have to a little juggling from that version, tab C. Do you have them?

Ms. Eberts: I do.

Mr. Bell: We have already talked about the last paragraph on the first page, but just the phrase, "no private company in which a minister or his or her family have an interest." In your opinion, what is the scope of the word "interest," in that paragraph and in these guidelines?

Ms. Eberts: It cues in with the phrase "blind trust," or with the idea of setting up a blind trust. It is the sort of interest that you could put in a blind trust. There are various of them. You could go straight ownership interest, where you have 100 per cent of the shares, or there might be some kind of interest like an interest in a company or in shares that you have or expect to have by way of inheritance, something like that. The phrase is a general one and, again, I do not have a lexicon of every possible thing that is in there. What I would tend to do is assess each individual circumstance by saying, "Is this the sort of ownership, near ownership or related interest that comes within the guidelines?"

Mr. Bell: I think you have already told us through your evidence as for the advice you gave to Mr. Caplan that a contingent interest is covered by this paragraph--

Ms. Eberts: I considered that it was.

Mr. Bell: --and that a contingent equity interest is covered by this paragraph.

Ms. Eberts: Yes. It is an interest in expectation, something that would give the person a real interest in the nontechnical sense in how the transaction turned out or in the results of the relationships. I would put it that way. It is a functional definition.

Mr. Bell: In terms of the anticipated result, when does that interest have to arise before it is caught by this paragraph in these guidelines?

Ms. Eberts: When, in terms of what?

Mr. Bell: The result.

Ms. Eberts: You are giving the information or the advice to the minister, which of the minister's family as of January or February, whenever. You have to look at the situation as it is then and see if as of that time the situation is such that the person's interest should be put in a blind trust.

Mr. Bell: If it cannot go in a blind trust, if it is not the subject matter of a blind trust, then it is not covered by the guidelines. You see what happens between the Davis guidelines and your guidelines, the blind trust

provisions were not in there.

Ms. Eberts: That is right.

Mr. Bell: Is it possible, or do you know, that interest was given a wider interpretation under the Davis guidelines than they now may have had in the context of the blind trust?


Ms. Eberts: No. I am looking at this situation from the point of view of somebody giving advice, primarily prospectively. That has been my perspective on it. You can also look at it from the point of view of a minister or somebody in the minister's family saying, "Should I get involved in this transaction?" He says: "What is going to be the outcome of it? Should I get involved in it, or should I put my interest in a blind trust?" I think it can operate prospectively.

Mr. Bell: Does "interest" in this paragraph and in these guidelines include a proprietary interest?

Ms. Eberts: It could.

9:30 p.m.

Mr. Bell: Can all proprietary interest be placed in a blind trust?
P-2130-1 follows



~~Mr. Bell: Does interest in this paragraph and in these guidelines include a proprietary interest?~~

~~Ms. Eberts: It could.~~

~~Mr. Bell: Can all proprietary interests be placed in a blind trust?~~

Ms. Eberts: Now you are asking me a wonderful question of law. I probably would have to send three or four students out to do the technical research on it.

Mr. Bell: All right. I will not expect a quick answer to difficult question.

Ms. Eberts: It is a difficult question.

Mr. Bell: You see my point.

Ms. Eberts: If you have a sole proprietorship, if you run your business as a sole proprietorship, for example, and your sole proprietorship is considering entering into a contract with the Ontario government, I would think that would be ??caught by this.

Mr. Bell: Will you turn over to the second page, the exclusion formula that you have included? That is the first paragraph on the second page. Can you explain to the committee what the nature and scope of that exception is, please?

Mr. Eberts: One of the difficulties that had been drawn to my attention with respect to the Davis guidelines is that the absolute prohibition against contracts with the government caught a number of benevolent contracts. One of the examples I have here is the contract of insurance that people have with the Ontario health insurance plan. Technically speaking, a minister or his family, under the Davis guidelines, probably should not have had dealings, or a contract, or a relationship with OHIP. It seems sort of ridiculous in the circumstances.

There are also things like crop insurance or subsidy payments for damaged crops that are available primarily through the government. They are available on a general basis and it seems overly technical to prohibit a minister from having it. That is why this exception is in here. It is to relieve against the harsh effects and the effects which lack common sense of a flat prohibition of all contract with the government.

Mr. Bell: Are grants or loans which may be available from the Ontario Development Corp. caught by the exception?

Ms. Eberts: I have not studied that question in detail.

Mr. Bell: Have you reviewed a copy of an opinion that Mr. Wright gave to Mr. Caplan on March 5, 1986 in respect of two circumstances wherein Mr. Caplan sought advice as to the guidelines?

Ms. Eberts: No, I have not.

Mr. Bell: Are you aware of Mr. Wright's interpretation of this clause?

Ms. Eberts: At the printed suggestion of Mr. Arnott, I have read the proceedings of this committee over the past two or three sections where Mr. Wright gave evidence, and I have read his interpretation of that section.

Mr. Bell: Do you share that interpretation?

Ms. Eberts: My view is that the exception is narrower than Mr. Wright thinks it.

Mr. Bell: How much?

Ms. Eberts: The exception was intended to relieve against the worst effects of the straightforward rule. My own view--and this is an idiosyncratic view. I do not speak for the government--when I was contemplating that, I thought it was an exception that might be looked at on a case-by-case basis and then incrementally only. It was not a flat-out, across-the-board exception for every kind of dealing with the government. That would make a nonsense of the requirement to have blind trusts. You should just look at the kind of mischief, if you will, that was aimed at by this exception and see if it applies.

Mr. Bell: Will you look at the last paragraph of the guidelines on page 3 and tell us what, in your view, the heck they mean?

Ms. Eberts: This little paragraph is inherited from the Davis guidelines and you perhaps have the wrong Tory partner sitting in front of you to answer that question. My view of this last paragraph is that it is a warning telling people: "You have had the law. Not everything that you are going to come up against is covered by the law, either in the form of guidelines or the Legislative Assembly Act. You have to be careful and you have to use your common sense--"

P-2135 follows



(Ms. Eberts)

~~"You have had the law. Not everything that you are going to come against is covered by the law, either in the form of guidelines or the legislative assembly itself. You have to be careful, you have to use your common sense and you have to ask somebody if you run into a situation that seems as if something could be awry."~~

It is just a goodbye and good luck kind of thing. It is no more than that. It is hortatory or precatory, as I used to say when I was a trusts teacher. It does not have fixed legalistic meaning. That is my view of it anyway.

Mr. Bell: As a former trust student, are you saying that there are circumstances out there not covered by the letter of these guidelines that may, on analysis and review, constitute a breach of the obligations and/or restrictions of the guidelines?

Ms. Eberts: Let me give you an example of the kind of situation I believe might be covered by this. There might be a cabinet minister or a parliamentary assistant who employs as live-in nanny and who does not pay the live-in nanny the wage that is required by the Ontario Ministry of Labour standards in that regard.

Mr. Wildman: Surely not.

Ms. Eberts: Some of you may be aware of the source of this suggestion. My view is a situation like that is not covered by these guidelines. It is the sort of thing that anyone in a position of public trust should worry about and they should develop the method of thinking that trips off warning signals about situations like that. That is what that paragraph is intended to say.

Mr. Bell: Forgive me. I have to come back yet because it is very important for this committee to understand, at least from your point of view. Are there circumstances outside of the letter of the guidelines, the printed words, that upon an appropriate analysis and/or a review, would constitute a breach of the guidelines?

Ms. Eberts: The first thing that you have to look at is the language of the guidelines themselves and those phrases in there such as "beneficial interest," "interest," and so on, are very broad. They are quite broad. My view is that you have to look to see whether a particular situation is within that language. If it is not within the language that is used in the guidelines, the specific paragraphs that are set out before the last one, I would say that you are clear as far as the guidelines are concerned. There is no offence against the guidelines.

Mr. Bell: Will you agree with me the size of the net that these guidelines create is directly related to the nature and extent of one's interpretation of the various key phrases like interest, contractual relationship and exceptions?

Ms. Eberts: Yes.

Mr. Bell: Do you agree with me that under Mr. Wright's interpretation, as you understand it and as it was given to this committee, that net is relatively small?

Ms. Eberts: That is a fair assessment of his position.

Mr. Bell: Can you confirm for this committee that the net created by your interpretation of those phrases and these guidelines is larger than Mr. Wright's?

Ms. Eberts: I may be a little more cautious in my approach to the guidelines than Mr. Wright would be.

Mr. Bell: Is that the same as creating a larger net?

Ms. Eberts: I believe so.

Mr. Bell: Can you assist us, in comparative terms, how large your net is compared to his?

Ms. Eberts: There you begin to lose me.

Mr. Bell: At 9:35, I begin to lose myself, but I am trying to grasp an analogy we can all deal with.

Ms. Eberts: I have given you my sense of the difference between my read of the exception and his read of the exception. He reads it very broadly, covering almost anything. I say take each case as it comes up and see whether it really is something that is meant to be covered, that is, are you dealing with a situation where you should relieve against the harshness of the straight application of the rule against no contracts? If you are, then the exception applies. If you are not, then the conduct is against the guidelines.

9:40 p.m.

Mr. Bell: Does your interpretation of the obligations and restrictions of these guidelines include a perception test?

Ms. Eberts: No.

P-2140 follows



~~(Mr. Eberts)~~

~~then the conduct is against the guidelines.~~

~~Mr. Bell: Does your interpretation of the obligations and restrictions of these guidelines include a perception test?~~

~~Mr. Eberts: No.~~

Mr. Bell: Should guidelines, in your opinion, include a perception test?

Ms. Eberts: I believe there are a lot of problems with guidelines that include a perception test, because the first question you ask is, "Whose perception?" If one person rises in the Legislature and says, "There is a perception of wrongdoing here," is that enough to constitute an offence against the guidelines? If you talk about any sort of perception test at all, you have to have a neutral third party arbiter. It is the perception of that person which is given within accepted principle cannons of interpretation that counts as the perception for purposes of the test. You cannot operate a perception test in a volatile, very political atmosphere because anybody's perception can cause a problem. I do not think that is fair and I do not think that is the way a system of conflict-of-interest guidelines is intended to operate. You could only profit from a perception test where you have a neutral third party arbiter.

Mr. Bell: I do not have any further questions at this time.

Mr. Chairman: Three committee members have expressed an interest.

Mr. Ward: You took me by surprise. My first question relates to the dating that you attached to your conversation with the Caplans on tab 10. You indicated in questioning by Mr. Bell that June 24 would be an approximate date of that conversation. Yet, I gathered that the meeting and the contact with the Caplans came about as a result of your presentation to the caucus. Is that correct?

Ms. Eberts: I think so. Yes.

Mr. Ward: Have you any way to verify that date? I could be wrong in this, but my recollection is that it was at that rather uncertain time prior to the defeat in the Legislature, although we knew it was imminent that you had been brought before caucus and asked to assist all members of our caucus in a preliminary preparation in an attempt to red-flag potential problems. Will you be able to reconfirm that date to us at a later time?

Ms. Eberts: I do not think I would have anything in my day book that would assist. I am going on the basis of Mr. Wright's date of this meeting. I read Mr. Wright's notes and I read my own. They seem to cover the same territory. If that is the date that he attaches to it, then that seems to be the only date that is in existence here. I am sorry I do not have anything else. As far as a normal docketing practices of a lawyer, it is a pretty unrecorded time.

Mr. Ward: The arrangement you had as part of the transition to you again--and it is an important point--my impression was one of a transitional adviser and by no means were you to be the final arbiter--you were only to assist us in preparing for the time that you did this and the responsibilities of government--when did your role cease in that regard?

Ms. Eberts: The role ceased in quite a lot of respects after the government was formed. There was some continuation because the formal process of inserting these changes into the guidelines had to continue. In effect, I continued to be the liaison between the then Premier's office and Mr. Wright in this regard. Some of the correspondence which I had produced to this committee reflects that role, where I would take the suggested amendments to the Premier's office, get clearance for--

P-2145 follows



(Ms. Eberts)

~~...Premier's office and Mr. Wright in this regard. Some of the correspondence which I have produced to this committee reflects that role, where I would take suggested mandates to the Premier's office, get clearance for them, and send them back to Mr. Wright. I in fact drafted the language of the three versions of those guidelines and sent them to Mr. Wright, just because it seemed that it might speed up the process if I did so. At that level, I continued to be involved until the end of this correspondence. That was just the tail-end of it.~~

Mr. Ward: In tab 3, with regards to the notes of your conversation with Mr. Wright, on the second page, your second heading is that ministers complain to Mr. Wright if there is a problem, that it is all confidential. Did you see that as being some sort of safety mechanism for any member that might have any concern that he could be encountering problems, and were you satisfied that was an appropriate recourse for an individual member, to contact the assistant deputy minister directly, and to vent those concerns with him on the basis that he had been giving advice to the cabinet minister, I guess, for 14 years in this regard? Were you comfortable with that arrangement?

Ms. Eberts: My understanding was that he had done this, historically, and that he was the repository in the whole of the Ontario government of all the lore as it related to those guidelines. Indeed, I got such information as I had about the administration of the guidelines from him. He seemed to be the one that was designated by the civil service and had been designated by the previous administration, as the man to do this process.

I felt confident that as soon as the government was the government, I could hand off my ad hoc responsibilities to the regular channel of Mr. Wright, and in fact, the reason that I tried to involve some people in discussions with Mr. Wright, is that I really regarded the advice that they should be getting as advice from Mr. Wright. I had no official status in the government structure. He was the one, really, that did.

Mr. Ward: So it would not be unreasonable to expect or assume that any member--whether the cabinet minister, the parliamentary assistant, or even private member--if he thought he had potential for difficulty, he could seek Mr. Wright's advice, and that, given his experience, that would be the best way to avoid problems, and that advice would, in fact, eliminate--

Ms. Eberts: That was my clear understanding. There is always an option of people going into their own private legal advisers for advice on these matters, but the disadvantage there is that the private legal advisor does not have the history, or the unwritten history, of the interpretation of the guidelines. Mr. Wright, I think, would be the main and most authoritative source as to how they had been interpreted.

Mr. Ward: Just one final question before I yield, and that refers to your meeting with the Caplans under tab 10. At the bottom you speak of the arrangements with Wyda. In your notes, it says, "a small monthly amount to defray expenses Damaza will receive a percentage of financing raised and percentage of equity incorporation," as a result of, I guess, producing in terms of those efforts.

Your understanding, then, of the monthly retainer fee was that it was to defray expenses, that it was not the total compensation package in any way?

Ms. Eberts: The way it was described is that it was-- At the corner of the page it talks about "if we are not successful ??they have only their fees," and that is again the reference to that. My impression was that the remuneration for being successful was substantially richer than the run-of-the-mill retainer.

Mr. Ward: By way of a percentage of the money raised or equity in the corporation.

Ms. Eberts: That is right.

Mr. Pope: Thank you, Mr. Chairman.

Tape P-2150 follows.



9:50 P.M.

July 2, 1986

~~Mr. Ward: That is by way of a percentage of the money raised or~~
~~any other protection.~~

Mr. Pope: You were retained by Mr. Peterson?

Ms. Eberts: Yes.

Mr. Pope: When was the date of your retainer?

Ms. Eberts: I do not have the exact date.

Mr. Pope: Was it before the May 2 election?

Ms. Eberts: No, it was not; it was after.

Mr. Pope: Were you paid for your work?

Ms. Eberts: No, I was not.

Mr. Pope: So in what sense were you retained?

Ms. Eberts: I was retained to look at the substance of a lawyer-client relationship. The nature of the work that I was doing for him and for the people to whom he made me available was that I was giving legal advice. I regarded the relationship as a confidential one, and they regarded it as a confidential one. It was an explicit part of the understanding that I had with everyone I saw that I would treat their confidences as confidences, and that I would give legal advice to them to the best of my ability. There was the substance of the solicitor-client relationship there, and lawyers do from time to time act on a pro bono basis and it does not interfere with the essence or the substance of their obligation to the people for whom they act.

Mr. Pope: Was that put in writing?

Ms. Eberts: It was not put in writing.

Mr. Pope: Was it put in writing from Mr. Peterson to yourself?

Ms. Eberts: No. It was not necessary to do so.

Mr. Pope: No one that you consulted with from the caucus of the Liberal Party or in the cabinet-to-be ever indicated he wanted that protection in writing?

Ms. Eberts: I gave it to them orally, and I think everyone clearly understood that was the nature of the relationship.

Mr. Pope: You were part of Mr. Peterson's transition team?

Ms. Eberts: Yes.

Mr. Pope: You were involved in this matter as part of the transition team?

Ms. Eberts: I was a member of the transition team. Very early in the work of the transition team it became apparent that there was a specialized task here, and that was relating to conflict of interest.

(Ms. Eberts)

I had some general policy-type discussions with the transition team in order to get some help with the direction of the guidelines, and I have told you about this, and I disclosed the documents that relate to them.

There was another very large portion of the work that I did during that transition period that nobody in the transition team ever heard about, and those were the relations I had with the individuals involved. I regarded those, and still regard them, as relations that I had with those individuals in my capacity as a solicitor.

Mr. Pope: You distributed documents to members of the Liberal caucus and to the cabinet ministers to-be?

Ms. Eberts: Yes, I did.

Mr. Pope: Why was there not included in those documents an explanation of your solicitor-client relationship with the members of the caucus? You had all sorts of other details. Why not that?

Ms. Eberts: There was in that one document that has been provided to you the statement that the information provided would be kept confidential from all but the Premier and his confidential advisers, and I have described to you the nature of that relationship, in that if they asked me if there were any reason why someone could not be in a particular ministry, I could say yes and that would be the end of it. It is rather like a house physician who does a physical examination of someone and does not provide the employer all the details of the medical background, but says whether the person is fit or not fit medically for the job.

Mr. Pope: Was it a solicitor-client relationship with the individual members of caucus that led you to report to the Premier on their fitness for cabinet?

Ms. Eberts: I think everyone understood when I talked to them what I would do.

Mr. Pope: Are you not reconstructing a solicitor-client privilege in order to protect yourself from disclosure of information to this committee?

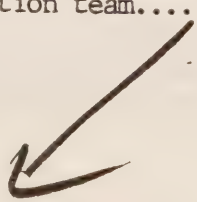
Ms. Eberts: No, I am not reconstructing it. It was clear from the outset.

Mr. Pope: It is not clear in any documents.

Ms. Eberts: I would not have elicited from people information about their confidential affairs unless I was willing, in my own capacity as a barrister, to give them that assurance. Quite apart from the transition exercise or anything else, I am a barrister, and that is my obligation.

Mr. Pope: You are a member of the transition team, you are advising the Premier of this province on cabinet appointments, you are giving him information as a member of the transition team....

2155 follows



Mr. Pope: ~~You are a member of the transition team, you are advising the Premier of this province on certain appointments, you are giving him information as a member of the transition team, you have had all sorts of documents delivered to members of the Liberal caucus--none of which refers to any solicitor-client relationship--and you now appear before this committee and say it is a solicitor-client relationship. What other evidence of a solicitor-client relationship is there other than you own word at this time?~~

Ms. Eberts: I consider that my own word is enough.

Mr. Pope: And there is no other information before this committee whatsoever other than your word today that there was a solicitor-client relationship?

Ms. Eberts: I have provided to you the documents that are within the terms of reference of this committee. I have told you of my dealings with members of caucus.

Mr. Pope: Did you ever give legal advice in writing, as a solicitor, for the members of caucus?

Ms. Eberts: You have a copy of the letter that I sent to Ms. Caplan.

Mr. Pope: Are there other letters?

Ms. Eberts: Because of solicitor-client privilege, I am not going to answer that question.

Mr. Pope: Not even whether or not there were other letters?

Ms. Eberts: No.

Mr. Pope: I am going to move a motion that question be answered at the end of questioning of this witness.

Are there any documents that you have in your possession with respect to the Caplans or the conflict-of-interest guidelines that you object to producing?

Ms. Eberts: I have received from the Caplans a waiver of the solicitor-client privilege that obtained between themselves and myself, and I have therefore made to this committee full disclosure of my dealings with them.

Mr. Pope: Are there any other documents in your possession with respect to the Caplans or with respect to conflict of interest guidelines that you object to producing on the grounds of solicitor-client privilege?

Ms. Eberts: You have before you everything that is relevant to the subject matter of this inquiry.

Mr. Pope: We have had this argument about relevance before with other witnesses, so it is not unique to yourself, believe me. Other than your assessment of relevance, setting that aside for a minute, is there any documentation that you have in your possession with respect to the Caplans or the conflict-of-interest guidelines that you object to producing on the basis of a solicitor-client relationship?

Ms. Eberts: Apart from the question of relevance, there is nothing that has caused me to withhold anything from this committee.

Mr. Pope: So you have withheld documents on the basis of your decision on relevance?

Ms. Eberts: There is one document. My solicitor has had discussions with committee counsel about that undertaking, and my understanding is that committee counsel has taken under advisement the question of whether he will require it to be produced.

Mr. Pope: Are there any other documents that you object to produce?

Ms. Eberts: No.

Mr. Pope: Are there any documents that you have ever had in your possession that you no longer have in your possession with respect to this matter?

Ms. Eberts: The letter that I have produced to Ms. Caplan shows that I returned to her a form that she filled out for me, and I am not producing that.

Mr. Pope: Are you objecting to producing that?

Ms. Eberts: I do not have it.

Mr. Pope: Did you return all of the forms to all members of caucus?

Ms. Eberts: I do not have anything in my possession.

Mr. Pope: What happened to all the forms?

Ms. Eberts: I am not going to answer that.

Mr. Pope: You were responsible for a review of the conflict-of-interest guidelines for Mr. Peterson?

Ms. Eberts: Yes, I was, in the context of the currentivity of that transition period.

Mr. Pope: Was access to Mr. Wright ever denied to you by the previous government, by the then Attorney General?

Ms. Eberts: I do not think it would be correct to say that access to Mr. Wright had been denied to me. My sense was that I had to feel my way along with Mr. Wright. I made an arrangement to go and see him and talk to him about the guidelines, and that discussion is reflected in the notes that I have produced to you. I believe I had some telephone conversations with him.

He was fairly cautious in his dealings with me because I had to establish a sense of his knowing who I was and my knowing who he was, and he did not warm up to me right away. Let us put it that way. There was never any explicit refusal by the then Attorney General to talk to me, but it took us a while to get on an easy footing.


Mr. Pope: Did you ever make any request to the then Attorney General that Mr. Wright be made available to you or to Mr. Peterson in the transition period?

Ms. Eberts: I talked to Mr. Wright. There was no formal request.

10 p.m.

Mr. Pope: Other than talking to Mr. Wright, did you, Mr. Peterson or anyone in the transition team ask the then Attorney General to make Mr. Wright available to you, to deal with...

2200 follows



~~Mr. Pope: Did you ever make any request to the then Attorney General that Mr. Wright be made available to you or to Mr. Peterson in the transition period?~~

~~Ms. Eberts: I talked to Mr. Wright. There was no formal request.~~

~~Mr. Pope: Other than talking down Mr. Wright, did you, as Attorney General, advise the transition team to ask the then Attorney General to make Mr. Wright available to you, to deal with conflict-of-interest matters with respect to prospective cabinet ministers?~~

Ms. Eberts: To my recollection--and I am not totally in the picture about this aspect of the transition exercise--there was a period during which it seemed unlikely that deputy ministers would be made available to the Peterson group, and I recall that there were some negotiations and then some period of delay, and ultimately there was arranged a series of consultations with deputy ministers and with one or two people from the transition team. I was not involved in those consultations, and I do not know what went on in them. I do know there was an initial period of some chill and some uncertainty as to the extent to which people in the upper reaches of the civil service would be made available to the Peterson group.

P. So you are not aware whether a request was made to the then Attorney General with respect to Mr. Wright's services or advice? I am asking you as the then Attorney General.

Ms. Eberts: I am not aware.

Mr. Pope: I was the Attorney General at the time, and I am asking you if you are aware of any request.

Ms. Eberts: You may be in a better position to answer that question than I.

Mr. Pope: So you do not know?

Ms. Eberts: I can tell you about my own conduct. I made no such request. I know ultimately it was arranged that I could go and see Mr. Wright. What led to that being done, I cannot tell you.

Mr. Pope: Can you give us more specific dates with respect to your meetings with Mr. and Ms. Caplan and Mr. Wright? You have indicated June 24, 1985, as one specific date you attach to your notes, tab 10. June 24 is your recollection based on a comparison with Mr. Wright's notes. Can you give us any other dates?

Ms. Eberts: There was only one other meeting that went on with Ms. Caplan, and it was before the meeting between myself and Mr. Wright and Mr. Caplan. I cannot tell you how many days before, and I cannot tell you the precise date of that meeting because I have nothing that would give it to me. I did not docket my time or keep an appointment book during that period.

Mr. Pope: Let me put it to you this way. On June 24, 1985, you had a meeting with Mr. Wright and Mr. Caplan. Was Ms. Caplan present?

Ms. Eberts: No, she was not.

Mr. Pope: At that time the government had been defeated and the present Premier had been asked by the Lieutenant Governor to form the government, so this was not a period when there was any doubt. He had been asked to form the government and was in the process of forming the government after defeat of the previous government.

Ms. Eberts: Are you asking me or telling me?

Mr. Pope: So was there any doubt in your mind on June 24 that Mr. Peterson was going to be the Premier, that the cabinet was going to be sworn in two days later, and that Ms. Caplan was to be part of the cabinet?

Ms. Eberts: Not that I recall all of the specific details you mention, no, but that sounds like about the right time period.

Mr. Pope: Was your initial discussion with Ms. Caplan after the defeat of the previous government?

Ms. Eberts: I cannot recall. It was before the meeting with Mr. Wright.

Mr. Pope: Do you know when the defeat of the previous government was?

Ms. Eberts: I cannot recall. I am sorry.

Mr. Pope: You cannot recall the \$4-million reference?

Ms. Eberts: No, I am sorry.

Mr. Pope: You were able to recall in some detail an explanation of the circled remark at the bottom of page 2.

Ms. Eberts: Yes.

Mr. Pope: Is the recall of that information, as opposed to the \$4 million based on any specific documents?

Ms. Eberts: No.

Mr. Pope: It is your recollection of your discussion?

Ms. Eberts: It is my recollection of this discussion.

Mr. Pope: Can you tell me why you are able to recollect a very complicated explanation of a circled remark, but you cannot recollect the \$4 million?

Ms. Eberts: The \$4 million...

2205 Follow

~~(Mr. Ebert)~~

~~...recollection of this discussion.~~

~~Mr. Pope: Can you tell me why you were able to recollect a very complicated explanation of this circled remark but you could not recollect the \$4 million?~~

Ms. Eberts: The \$4 million is part of an explanation that Mr. Caplan gave me about his business dealings. From the explanation, I extracted what I considered the material facts. It was neither here nor there to me that we were talking \$4 million.

The problem presented itself whether their were references to dollars or not. The problem was that he was going to be making a presentation to the Ontario government and that he was getting equity in this company and a share of the proceeds.

I suppose part of my training is to isolate facts that appear material to a situation. The \$4 million dollars did not appear material then and does not now. I do not recall the context in which it arose.

Mr. Pope: Can you explain to me how the explanation of a circled comment at the bottom of page 2 of item 10 that you just gave can, in any way, relate to your advice to sever a relationship--not alter the relationship, sever it?

Ms. Eberts: Look the notes for a minute. We were discussing a particular relationship between Wyda and Damaza Consultants, which is Mr. Caplan's company. The relationship was as described by Mr. Caplan to me and recorded in those notes. The circled comment says, "withdrawal from that relationship is his only option." He had to get out of that relationship. withdrawing from that relationship is severing it. I do not see that there is a discrepancy or a problem if you look at it in the context of the relationship as he described it to me then.

Mr. Pope: So, severing becomes altering.

Ms. Eberts: I did not say it becomes altering. I said that withdrawal and severing are quite similar. That is what we told him to do. He could not be in the relationship that he had described.

Mr. Pope: Have you ever acted for or been retained, or has your firm ever acted for or been retained, by any of the companies involved in the declarations that the Caplans filed with this cabinet?

Ms. Ebert: Not that I can establish. I know I have never acted for any of them. My involvement with the Caplans has been in this context only and in the context of the transition phase. As far as my firm is concerned, I do not think it has ever been involved with Mr. Caplan's companies.

Mr. Pope: Have you ever personally acted for the Caplans?

Ms. Ebert: No, I have not, except for this.

Mr. Pope: How much of a backroom player do you have to be to meet your approval.

Ms. Ebert: I am sorry?

Mr. Pope: You used those terms yourself in reply to counsel that you had to be in the backrooms. How much of a backroom player do you have to be to be accepted there? These are your own words.

Ms. Ebert: Alright. The thing that I told him not to do, was to be an obvious frontroom player. We did not sit down and do the degrees of withdrawal from the frontroom, or the front line, in an exquisite amount of detail. I told him he could not be on the front line.

Mr. Pope: Would you qualify it as front line if documents produced by the IDEA Corporation--I will refer specifically to document 2; the product dateline and business plan of July 4, 1985, received August 12, 1985 on Wyda Systems Inc., which shows that Mr. Caplan is vice president of finance and administration. Do you think that is up front?


Ms. Ebert: You have not shown me the document.

Mr. Chairman: You have one minute.

10:10 p.m.

Mr. Pope: If you examine all of the documents in that presentation that has been made to the members of this committee, you will see, throughout most of the tabs of documentation submitted by Wyda to the IDEA Corporations through the summer and fall of 1985.

P-2210 follows



✓ Mr. Pope: ~~I had that presentation that has been made to the members of this committee, you will see, throughout most of the tabe of documentation submitted by Wyda to the I&M Corporation through the summer and fall of 1985, prominent reference to Mr. Caplan. Do you think that he ignored your advice?~~

Ms. Ebert: I am looking at the page that you have put before me. I have no description whatsoever of what the role of vice president of finance and administration would be, and I have only your word for it that his name appears prominently in a set of documents that I have not had a chance to review. I do not think that on the basis of what I have before me I can answer your question.

Mr. Pope: My time is up. I will come back to this.

Mr. Wildman: I have found this rather interesting as a non-lawyer. I am going to ask some questions that I hope do not illicit questions on matters of law.

First, I would like to look specifically at the letter dated July 8, 1985, Tab 10(a), in relation to the letter dated August 6, 1985, from Mr. Caplan to Elinor Caplan, Tab 15, which you received a copy of. What I want to get at is your description of backroom, or quarterback.

Could you explain why, if it might be considered improper for a spouse of a cabinet minister to be a frontline negotiator for capital from a provincial government, it would be better to be a quarterback or a backroom player. As a non-lawyer, to me, it would seem to be worse.

Ms. Ebert: One of the things that I had in mind when I talked about not being in the frontline was that if someone who is a cabinet minister, or a spouse of a cabinet minister, goes to someone in the government, for example, as a representative of a certain business interest, or any other interest, there is really no predicting how the person in the government will respond to that.

The person in the government might think that, without any suggestion from the spouse at all, if he or she did a good turn for this corporation it would be something that would be liked or approved of. The unpredictable factor in that is how the person approached is going to respond. That is something that the approacher may not have any control over.

It is the same as accepting gifts from supporters. You may accept it in good faith, but you do not know the spirit in which the gift is given. There may be an expectation attached to that gift. What I was hoping to avoid by getting out of that frontline contact is the sort of volatile relationship that has someone talking to people and not being able to control how they respond to him and what inferences and assumptions they make about what would be a good course of conduct for them.


If the person were in the backroom, in a consulting role, preparing financial statements, or whatever, then the opportunities for these kinds of possibly difficult exchanges would be minimized. The company would be able to take the benefit of the advice, knowledge and expertise of that person, but the person would not put himself, his spouse, or the company he represented in that interface position where one does not know how one is going to be received.

Mr. Wildman: You described the word "withdrawal", in the circle in Tab 10 of your notes that Mr. Pope was referring to, as similar to your reference in the letter of July 8, "to sever."

Ms. Ebert: Yes.

Mr. Wildman: When you look at the letter..

P-2215 follows



(Mr. Wildman)

...to your reference in the letter of July 8 to severance.

~~What you said at the time~~ in tab 15 dated August 6, a copy of which you received, in your view does that letter fulfil either withdrawal or severance?

Ms. Eberts: The concern that the August 6 addresses is not a total withdrawal from the relationship altogether; it is not getting out and going to another company. What is said in here is that the relationship would be on an internal basis only with no contact whatsoever with any Ontario government body.

I looked at that quickly when it came across my desk. At the time, it seemed to make the concerns that we had talked about.

Mr. Wildman: But you will agree that in your circled notes it does not say total withdrawal, nor in your letter does it say complete severance.

Ms. Eberts: In the withdrawal, you will notice at the bottom there are two pages of notes that talked about an equity interest, a share of the profits, and a very public role in presenting the company. That is what it said you would have to withdraw from. His letter of August is addressing all of those points and indicating that he is getting out of those three things that we had flagged as real difficulties.

Mr. Wildman: In the book that you do not have, I will give you a copy, tab 10 is an excerpt from a presentation that was made to the board of directors of IDEA with regard to an application by Wyda in which it describes the management of the company, and in which the staff of IDEA makes comments about who they are, their capabilities and what it means with regard to his assessment of application. You will note on the third page, Wilfred Caplan, V-P Finance, is listed under the description of his other position that he holds. That is dated February 19, 1986. That gets to the questions of Mr. Pope. Is this back room or is this quarterbacking?

Ms. Eberts: I do not know all the circumstances that surround it. You have shown me one piece of paper. I think it is only fair to Mr. Caplan that you look at all the circumstances.

Mr. Wildman: We are attempting to do that. If you look at the same book, tab 4 of September 9, 1985, it is a memorandum from Wyda. Again, on page 2, it describes Mr. Caplan's role.

Mr. Polsinelli: Role or title?

Mr. Wildman: More than that. In his title it says, "Mr. Wilfred Caplan, Vice-President of Finance," then below that it talks about his other positions. "From the information given in the resumé the management team of the company is comprehensive and impressive," and so on.

Then, on tab 5, there is another memo. This is an IDEA memo from Mr. Logan. If you look at the first paragraph it talks about Mr. Caplan being involved in the company, and his relationship to a cabinet minister. In the second paragraph it deals with Mr. Dobzinski, the president of Wyda, where it

(Mr. Wildman)

says ne will be dealing on a front-line basis with IDEA.

Again, I realize you have only had a moment to peruse this. It is sketchy. I do not want to go through it all, we do not have the time, but is this the kind of back-room quarterbacking that you think is acceptable? How does that relate to what you said earlier in your letter with regard to severing?

10:20 p.m.

Ms. Eberts: On the basis of what I have been able to look at--

(Tape P-2220 follows)



~~...is acceptable. Now does that relate to what you said earlier in your testimony regarding borrowing?~~

Ms. Eberts: ~~On the basis of what I have been able to look at in~~ these few moments I am not in a position to offer you very many comments. I do not know the role the vice-president of finance's play in this. I do not know whether he is preparing financial statements, whether he is looking at the IDEA Corp., or anybody else's requirements as to what should be shown in the financials, what sort of thing you want to see there and say, "You have to do this, you have to do that, and do the other thing." It might well be the sort of back service role, not a public role, but I would envisage this.

Certainly, the document you showed me on tab 5 is consistent with IDEA's not having anything to do with the negotiations.

Mr. Wildman: Would it be acceptable, in your view again as someone who was involved in the discussion of the conflict-of-interest guidelines, if the vice-president of finance was not involved in the direct negotiation of a grant or loan but he was available to the government agency to discuss information related to the financing of the company during the time those negotiations were ongoing?

Ms. Eberts: His role, then, would be quite a bit more passive in the active presentation of the proposal that we had initially discussed with Mr. Caplan and told him we were worried about it. If he is made available to them to explain things that only he can explain it seems that he is in a very much more restricted role than what he was originally contemplating, and what we had thought would be difficult.

Mr. Wildman: I do not think anybody would debate that, but you would agree that if he is available to the staff of a crown corporation during the period of time when discussions were ongoing with regard to a loan that he is, indeed, visible. If his position is known with the company to the staff of the crown corporation, and his relationship is known with regard to a cabinet minister, then there must be some sort of apparent conflict that might develop.

Ms. Eberts: I am not as prepared to draw that inference as you seem to do. If he is available only on an as-needed basis it seems he is trying to tailor his involvement to the exigencies of the situation and to what, I guess could be called in some circumstances, the optics of the situation. He is not going forward a lot.

The fact is that people who are married to those in public life do have to earn a living. They do carry on business. The fact that they are in business is known around and about. If you take your views on allowing its logical extension you say a person should never really be employed anywhere because knowing that he is employed somewhere might be an advantage at the company where he is employed.

Mr. Wildman: A little earlier you spoke of making nonsense of a guideline. I think that kind of comment makes nonsense of any kind of guideline.

I would like to bring you back to tab 7.

Ms. Eberts: Which document?

Mr. Wildman: It would be the black book on tab 7 entitled, "The Conflict of Interest Guidelines--A Question of Style." Could you remind me what this document was?

Ms. Eberts: This is something that I prepared for the discussions that I had with the transition team about the guidelines from a policy point of view. We were trying, in that transition stage, to determine whether it would be a good idea to try to radically change the system in Ontario and set up something like the federal system as a big secretariat, or whether we should adopt the ??data's guidelines, or what we should do. The people with whom I was discussing this had not been intimately involved in the guideline work.

Mr. Wildman: It is a sort of discussion document?


Ms. Eberts: It is a discussion paper for the transition.

Mr. Wildman: But it would embody your views of approaches that should be taken to real or apparent conflicts of interest.

Ms. Eberts: It embodies my views of approaches we should discuss.

Mr. Wildman: I would like you to turn to page 2, the elements of the approach that you were suggesting might be considered--

(Tape P-2225 follows)



~~Ms. Eberts: It embodies my views of approaches we should discuss.~~

~~Mr. Wildman: I would like you to turn to page 2. The elements of the approach you are suggesting might be outlined. Do any of those three envisage a quarterback role?~~

Ms. Eberts: You mean in this particular situation?

Mr. Wildman: For instance, you are suggesting: "(1) Where there is any doubt about whether a course of action is acceptable or not, it should not be undertaken; (2) People should conduct themselves as if anything they could do tomorrow be on the front page of the local or national newspaper; (3) The onus of preventing real, apparent or foreseeable conflicts rests with the elected officials." Do any of those three allow for a quarterbacking role?

Ms. Eberts: These three represent what I call a very hard line on the conflict-of-interest issue. That is what the brief description, Caesar's wife, is intended to indicate. It is a very hard line and it probably would not encompass a quarterback or a back-room role. If it was carried to its ultimate conclusion, as I have just said--and I hope you will appreciate this; I am not trying to be obstructionist--it will probably mean that people who are in the public eye and those who are married to people in the public eye should not really do much of anything, including any substantial volunteer efforts.

Mr. Wildman: You raised that when you were discussing the so-called Davis guidelines earlier, the possibility that someone could not benefit from the Ontario health insurance plan or could not get a tile drainage loan or something like that.

Ms. Eberts: Right.

Mr. Wildman: Surely, that did not happen. You may not have knowledge of this, but you did not have any evidence in your discussions with Mr. Blenus Wright or others during this period that this kind of thing ever happened, that a cabinet minister in a previous government who was a farmer was denied a tile drainage loan or could not apply for one because he was afraid he might have a conflict.

Ms. Eberts: I did not have any evidence with respect to OHIP. I did have those two opinions from Mr. Wright which he indicated were exemplary. They were typical of the kind of thing that could happen. In the circumstances, reading them with the names blacked out and only fragmentary details of the programs, it seemed the message he was giving to me was that some people were really being denied the benefit of some pretty innocuous programs because of a strict interpretation of the Davis guidelines. As I understood it, the tourism redevelopment incentive program was available for tourist operators reasonably generally, but this particular person could not take advantage of it because he was a cabinet minister.

The question of tile drainage loans did not come up specifically in our discussions.

Mr. Wildman: I was just using that as an example. You have talked about crop insurance and so on.

Ms. Eberts: That was one that was raised in the context. I think there was a program of subsidies for crops that were destroyed that did come up in that discussion. It was a serious difficulty. There were also things like agricultural development programs.

Mr. Wildman: Let us not get into all those. Can you give me some indication whether there was any discussion by you with Mr. Wright or others as to whether there is a dollar figure, where this kind of ridiculous situation, which I do not think ever happened, might come into play, where there was a certain amount over which a cabinet minister or his or her spouse might not be able to benefit?


Ms. Eberts: There was not in my discussions with Mr. Wright. As to the other background we were discussing, if Mr. Wright comes back in front of the committee, you might be able to get more background from him as to whether any cabinet ministers were seriously inconvenienced by the application of that rule.

10:30 p.m.

Mr. Wildman: I would like to finish off by asking why it is that on the one hand you suggest in advice to Mr. Caplan that he should sever the relationship between Damaza and Wyda, and then subsequently and with us tonight you indicate the fact that moving to the back room is acceptable? Why the change? I see it as a change.

Ms. Eberts: I do not see it as a change.

P-2230 follows



~~and with us tonight, you indicate the fact that moving to the back room is acceptable. Why the change? I was in the room.~~

Ms. Eberts: ~~do not see it as a change.~~ The relationship I was talking about from which I said he should withdraw in the one contact, or sever in the other, was the relationship as he described it to me at the time. It had the elements that he would take a share in the company, he would get a share or a sum equivalent to a percentage of the funds that were garnered and he would play a frontline role. I told him he could not do that. If you get out of that, there is considerable room left to--

Mr. Wildman: So you are saying he had to sever that relationship, but he might be able to develop another relationship?

Ms. Eberts: I told him that he had to sever or withdraw from the relationship he described to us. I think Mr. Wright told him the same thing, from what I read in his documents and from his testimony. As I understand it, he then went back to Mr. Wright for some further discussions to which I was not a party and about which what I say would be just speculation at this point.

Mr. Wildman: You said earlier this evening that in your view, Mr. Wright's interpretation of the exceptions in the new guidelines is wider than yours.

Ms. Eberts: That is my general view of Mr. Wright's exceptions. I have not applied my mind and my sense of interpretation on the exceptions in these guidelines to Mr. Caplan's situation. In the course of the work I did for them, I was never called upon to do that.

Mr. Wildman: Earlier, you said that you saw his interpretation as classes of people and you would prefer to look at each individual case.

Ms. Eberts: Yes. Where it says that comment about his interpretation being classes of people, whereas when we were looking at my notes, what he told me about the Davis guidelines where he was talking about personal beneficial interest, which is a different paragraph of the guidelines from the exceptions one.

Mr. Wildman: I know that.

Ms. Eberts: He described that as involving categories of people. I would not approach it that way. I would look at each case on its individual merits and not draw general--

Mr. Wildman: Rather than describing it that way, could you describe yours as somewhat ad hoc?

Ms. Eberts: Case by case is what I would call it.

Mr. Chairman: Ms. Eberts, would you have any problem appearing before the committee again tomorrow? We have two additional questioners and Mr. Pope has indicated to the chair that he wishes to put three motions with respect to questions that you declined to answer. Would you have any problems in appearing before the committee as our first witness tomorrow afternoon?

Mr. Epp: Mr. Chairman, my name may be on there.

Mr. Chairman: Yes, it is.

Mr. Epp: I am prepared to pass. The other day, we were able to finish just short of 11 o'clock. I know we have had a long day, but it might be convenient for everyone if we finish the questioning of Ms. Eberts tonight. I have a suggestion that we sit a little longer so we can complete our questioning tonight and go on to the Innovation Development for Employment Advancement Corp. tomorrow. You have indicated to the IDEA Corp. executives that they should be on tomorrow at 9:30 a.m. I am just hoping we can stay with that timetable.

Mr. Chairman: As I indicated at the previous meeting, we will require unanimous consent to go beyond 10:30.

Mr. Gillies: I have at least 20 minutes worth of questions to ask. Mr. Pope probably has a like amount. Then we have motions. I do not think it is reasonable to expect us to be here another hour or so. I will deny unanimous consent. We would certainly like to have Ms. Eberts back at her convenience. I hope a time can be arranged that is convenient.

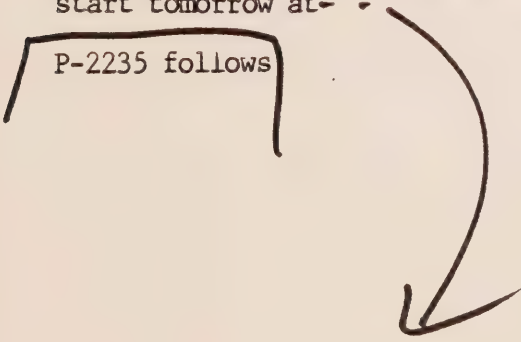
Ms. Eberts: I cannot come tomorrow afternoon. I could arrange to come in the morning. I am running on a set of very ramshackle ??babysitting and it is a question of appointments at the moment.

Mr. Chairman: The problem is we have adjusted the IDEA Corp. schedule twice now. I will look to our counsel for advice. Any problem with that?

Mr. Bell: It is my desire to finish with Ms. Eberts in some consecutive way, if that means tomorrow at 9:30 a.m. This is the schedule we set and the witness order is going to inconvenience some people. It is a question of degree. We can start the IDEA Corp. people at 10:30. I hope that could be communicated by Mr. Arnot before they come.

Mr. Epp: May I make a suggestion? We may not be able to finish with Ms. Eberts tonight. We are not going to have unanimous consent. Could we get the unanimous consent of the committee to go to 11 o'clock tonight to do one more questioner? I think Mr. Gillies indicated he had about 20 minutes and Mr. Pope has about 20 minutes. We could finish one more full questioner and then start tomorrow at-

P-2235 follows



~~When I start the IDEA Corp. at 10:30, I hope that could be accomplished by 10:30 before the meeting.~~

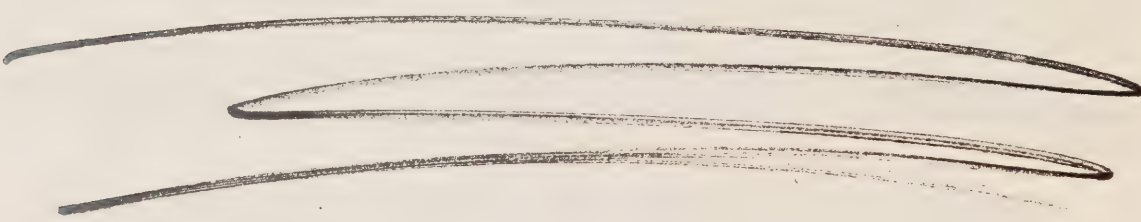
Mr. Epp: Now I make a suggestion? He may not be able to finish with the IDEA tonight. We are not going to have unanimous consent. Could we get unanimous consent of the committee to go until 11 o'clock tonight? We could do some work at 11. Mr. Gillies indicated he has about 10 minutes and Mr. Epp has about 20 minutes. If we could finish the more full questionnaire at 9:00 a.m. or 9:30 a.m., we could shorten that period down considerably and deal with the IDEA Corp. and Ms. Eberts tomorrow morning.

Mr. Chairman: How do the members of the committee feel about that suggestion?

Interjections: No.

Mr. Gillies: We have been here since nine o'clock this morning. I think we will all benefit from a fresh start in the morning.

The committee adjourned at 10:36 p.m.



STANDING COMMITTEE ON PUBLIC ACCOUNTS

ALLEGED CONFLICT OF INTEREST

THURSDAY, JULY 3, 1986

Morning Sitting

Draft Transcript



STANDING COMMITTEE ON PUBLIC ACCOUNTS

CHAIRMAN: Runciman, R.W. (Leeds PC)

VICE-CHAIRMAN: Gillies, P.A. (Brantford PC)

Epp, H.A. (Waterloo North L)

Gordon, J.K. (Sudbury PC)

Philip, E.T. (Etobicoke NDP)

Polsinelli, C. (Yorkview L)

Pope, A.W. (Cochrane South PC)

Wildman, B. (Algoma NDP)

Substitutions:

McGuigan J.F. (Kent-Elgin L) for Mr. D.W. Smith

Ward, C.C. (Wentworth North L) for Mr. Ferraro

Clerk: Arnott, D.

Staff:

Fritz, H., Research Officer, Legislative Research Service

Bell, J., Counsel; with Shibley, Righton and McCutcheon

Peters, M., Associate Counsel; with Shibley, Righton and McCutcheon

Witnesses:

From Tory, Tory, Deslauriers and Binnington:

Mary Eberts

July 3, 1986

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON PUBLIC ACCOUNTS

Thursday, July 3, 1986

The committee met at 10:09 a.m. in committee room 228.

ALLEGED CONFLICT OF INTEREST
(continued)

The Chairman: Come to order, please.

Before we resume the questioning, Mr. Philip, you have a matter that you wanted to ---

Mr. Philip: Well, I had some concern that caught me by surprise, that one of the media tables is being taken up by Hansard, and I'd like an explanation for that. It seems to me that the space for media is limited as it is in this committee and they should be accommodated. I can give you the reason very easily.

The Chairman: I'm sorry. The clerk advises me that Hansard had to acquire the services of an outside firm, and they were provided with that particular table by Hansard. And it has created some difficulties for the media. I look for direction from the committee if they have any concerns about the print media using this particular desk over here.

Mr. Ward: Well, may I suggest, then, that anybody who doesn't need a plug-in should be given permission to use that table, if they so desire, behind the Conservative members.

The Chairman: Committee agree? All right. Fine. If you so wish.

Mr. Ward: I would just simply ask if there is anybody that wanted to plug in who cannot plug in because we only have one table. Somebody will come in two minutes now and not be able to plug in, but -- is there any way of plugging in directly to the console up here? The answer is no. Well, I just hope it doesn't re-occur.

The Chairman: I apologize for the delay in getting underway. I appreciate your patience.

Now, the first questioner this morning on the

(The Chairman)

list is Mr. Epp, and he is not present -- yes, he is.

Mr. Epp: I will pass for now.

The Chairman: Mr. Gillies?

The Vice-Chairman: Thank you, Mr. Chairman.

Ms Eberts, the testimony you were giving us last night regarding the message that you wanted to convey in your letter of July the 8th -- I want to review that with you, because I think the message that the letter appears to convey on the face of it is quite different from the one you told us last night you intended it to convey.

Now, the letter reports in part the discussions that you had with Wilf Caplan and Elenus Wright at the June 24th meeting, and so you are reporting some of the results of that meeting to Mrs. Caplan, who was not present at the meeting; is that correct?

July 2, 1986

Ms Eberts: I think that's one way of looking at it.

Mr. Philip: Right. Okay.

And so I'm wondering why, for example, in the letter you said, let me say for example, quote: "As you are also aware, Blenus Wright and I have advised Wilf that contact with demands and with agencies of the Ontario Government looking for investment capital would present difficulties even if he were not to take an equity in . . . the clients benefitted or sought to be benefitted."

Now, you told us last night that what you were cautioning against was front-line or first-line contact with such companies but that that was not an across-the-board ban, if you will, on his participating in the company.

I'm just wondering why, when you were reporting that to Mrs. Caplan, and she was not in attendance at the June 24th meeting, why the wording would seem to not quite convey the flavour of what it is you wanted to convey.

Ms Eberts: Well, as I said last night, the letter, I think, should be put in the context of the discussions I had with Mr. Caplan and with Mr. Wright. Mr. Caplan conveyed to me his intentions about a certain way of doing business.

There was in my mind at the time some understanding that Mrs. Caplan knew generally how he did operate because she was the one who had told me in the first place his general plan: that was that he would take equity and he would take a percentage of funds found; and what I am saying here is not a sort of scholarly exercise in saying well, here's what we told him and now what is this, what is that, what is the other, what if, and so on and so on and so on. It was intended as a summary of the discussions that we had had with him and no more than that, and just something that she could use as a checklist. It wasn't an academic exercise, canvassing every possible, conceivable possibility. It addressed what he told us at that meeting.

The Vice-Chairman: Okay. I'm wondering why

July 3, 1986

then, if (Mr. Gillies)

you refer to Tab 15 in the binder which is the August 6th letter from Wilfred Caplan to his wife Elinor, and it says quite clearly that it is re your letter of August 8th. The first paragraph indicates quite clearly that Mr. Caplan attempted to withdraw or Damaza attempted to withdraw from its engagement with Wyda Systems and Wyda requested that Damaza continue its consulting relationship with Wyda on an internal basis only with no contact whatsoever with Ontario Government bodies.

Now, why, in response to your letter, did Mr. Caplan apparently feel it necessary to go to Wyda and offer to withdraw his services and apparently again, at the same time, they talked him out of it?

Ms Eberts: I think you're going to have to ask Mr. Caplan about this matter. Now, my understanding is, and you will note that there is no signature at the bottom of this letter. My understanding is that letter was a draft and that he did not approve its final contents and it had got to me by inadvertance; so that the letter was not signed and sent to her.

The Vice-Chairman: So you are saying the August 6th letter was not sent?

Ms Eberts: It came to me and I received it and it was in my "In" basket and I took it as a courtesy of some sort that they were just keeping me in the picture although I was no longer involved. But as to the truth of the contents of that letter and as to how accurately it represents the dealings that Mr. Caplan had with Damaza, I will have to defer to Mr. Caplan because I do not have firsthand knowledge of that. I have been advised that that was a draft and it got to me by inadvertance, and that's all I can tell you at this point.

The Vice-Chairman: So we are to assume then, and we certainly will ask Mr. Caplan this, that he sent the CC to you but the original letter was not signed and sent to the person to whom it was addressed?

Ms Eberts: I don't believe that Mr. Caplan himself sent the CC to me. I believe that was done by someone else.

July 3, 1986

The Vice-Chairman: Well, at some point in the thought processes of whoever drafted this letter of August the 6th, whoever drafted the letter of August the 6th which was intended to be signed by Mr. Caplan, was under the impression that he went to Wyda to sever the relationship. Not to alter it, but to sever it. To withdraw from the relationship with Wyda.

Ms Eberts: Now we are getting perhaps even farther afield; because, as I say, I don't have direct information about the genesis of this letter, or how it got to me or whatever. All I know is that it did come to me. I was subsequently told that it had been a draft prepared and sent to me by inadvertance.

The Vice-Chairman: All right, we'll have to ask Mr. Caplan that then.

The reference, I want to go back to your handwritten notes of the June 24th meeting, and the committee has also had before it Mr. Wright's handwritten notes with reference to the same meeting.

In your note here, it says with regards to Damaza, with regard to Damaza, that Mr. Caplan owns two shares; E., presumably Elinor, owns one share; that he is the president and Elinor the secretary. Now, are you aware that in Mrs. Caplan's filing, with her Cabinet filing of her holdings, that under the category of share holdings she has submitted "Nil".

Now I wonder if you could confirm for us that as of June 24th, '85, your understanding was that she was a shareholder and a secretary of Damaza; whether you could confirm for us that you were aware that no shares were submitted with her filing, and whether you have any knowledge of what became of her share in Damaza at any time subsequent to June 24th. Did she divest? Does she still have it? Was there an accident or a mistake in the filing? What happened?

Ms Eberts: As far as the information that I have, as at the date of the meeting with Mr. Caplan and Mr. Wright, I think the note that you have before you very accurately reflects my understanding. That was the part of the note where I was recording what Mr. Caplan told me, and I would have written down what he had said at that point.

(Ms Eberts)

The letter that I sent to Mrs. Caplan indicates my advice to her that she should divest herself of that share; that she should get out of Damaza ---

The Vice-Chairman: Okay.

Ms Eberts: --- and that's the letter of the 8th

The Vice-Chairman: That's in the July 8th letter.

Ms Eberts: And you'll also see that at the bottom of the note of my meeting with Mr. Caplan and Mr. Wright there's the sentence: "Elinor right out of the company . . ." which indicates that that was discussed at that meeting as well.

The Vice-Chairman: Okay.

Ms Eberts: And as far as what happened subsequent to my sending her the letter, the process was that Mr. Blenis Wright was dealing with the filings that the cabinet ministers put in. They were going to him and he was having the dealings with them. I did not have any formal dealings with any of the cabinet ministers' filings that they made in the fall, so I can't answer the rest of your question.

The Vice-Chairman: Okay. Mr. Wright was unaware, when we asked him, what had become of her share. I think he is going to undertake to get back to us. Could you in the July 8th letter, could you point -- I think I know what you just picked -- would you point out the references to me in the July 8th letter which was the caution for her to divest of her share in Damaza. Is it the reference to ---

Ms Eberts: It starts: "As we have discussed, your bank preferred shares will have to be sold or put in a blind trust to comply with the guidelines and you will have to divest yourself of your share in Damaza Consultants.

The Vice-Chairman: Okay.

July 3, 1986

Mr. Gillies Okay. In your handwritten note you refer on the second page of the note to Mr. Caplan's participation with the PEC Financial Corporation. Mr. Caplan sold his interest and resigned office from PEC as of April 30th, 1985. Was that your understanding?

Ms Eberts: That's the note.

The Vice-Chairman: Okay. What can you tell us in your discussions with Mr. Caplan -- his relationship with PEC, was it -- you considered it sufficiently important to make a note about it. I just wondered what you could tell us about that.

Ms Eberts: I understood that he had been a principal in that company and that he had got out of it as of the date that he mentioned. He did elaborate, to some extent, upon the history of PEC, its development. Basically because it was old history, as it were, we didn't go into the intricacies of PEC.

There were some discussions about, as I recall, about whether any of the business involvements that he had had with PEC, although he was out of the company, could have a tale that unwound after April 30th. Because, I don't know, I am not a corporate lawyer, but some of these things do have a half-life, if you will. So that we did touch on those issues, and the sense that I gathered from the conversation was that he was out of it, although he did fill in some of the details and the background.

The Vice-Chairman: My understanding from Mr. Caplan's resume is that he was secretary-treasurer and chief financial officer for PEC from 1978 until May 1st, 1985. You were aware of some of the problems at PEC, I take it. Your letter is dated July the 8th. Did you know that in that same month, July 1985, that PEC went into receivership?

Ms Eberts: I became aware of that afterwards.

The Vice-Chairman: Had bank debts of approximately \$22 million I understand. So part of your concern was probably what effect this might have on his filings or his dealings.

Ms Eberts: Well, the letter of July 8th sets out the nature of my concern.

July 2, 1986

The Vice-Chairman: Okay. So you are saying, and I'm quoting from the letter: "However, should the condition of PEC deteriorate," which it did; it went into receivership, "so that claims wind up being made against it, it might be a good idea to have further consultations with Blenus Wright as for the best way for Wilf to protect himself against any indirect adverse consequences."

Ms Eberts: That's what I said.

The Vice-Chairman: So we'd have to ask Mr. Wright whether he had any contact on that basis.

Ms Eberts: Yes.

The Vice-Chairman: Okay. Can you tell us a bit about your understanding of the history of Damaza? In one of her statements to the Legislature, Mrs. Caplan said that her husband had been a consultant to small business since 1971.

What can you tell us, or what were you aware of with regard to the history of Damaza, the periods of time during which it was active, not active and so on?

Ms Eberts: The note that I made of the discussion with Mr. Wright and Mr. Caplan records the information that I had at the time, that Wyda was Mr. Caplan's first client. And, I don't have an exceptionally clear-cut history of Wyda, or of Damaza rather. My understanding at the time was that this was a new company, or a newly-resurrected company that he was bringing forward because he wanted to be active again in financial consulting. I also understood that he done financial consulting in the past.

Whether he had done it within the corporate vehicle of Damaza, or some other corporate vehicle, I didn't think it material to inquire. Damaza and its present relationships were what was concerning me at that time.

The Vice-Chairman: Okay. So your understanding, as is indeed my understanding, was that at the time of your meeting, the only client Damaza had was Wyda. It would appear from other testimony that we've had that the relationship between Wyda and Damaza was formalized on June 17th, 1985 and then you were meeting with Mr. Caplan just one week later.

July 3, 1986

Ms Eberts: As I understood it, it was quite a new relationship.

The Vice-Chairman: A new relationship.

Okay, well just -- if I may, I just want to summarize so that I'm clear on -- the intent of your letter of July the 8th was that whatever interpretation may be put into the wording of July the 8th, of the July the 8th letter, that your intent was not that Mr. Caplan, or your advice was not that he sever his relationship with Wyda entirely; that your advice was meant to be taken that he should not participate in any way that would see him acquire equity in the company; and that your understanding further is that in the letter when you say, and I quote: "He", Mr. Caplan, "has advised that he will sever the relationship between Damaza and his present client, Wyda, for whom he had planned to seek Ontario Government funding," that what you were trying to convey there was that the relationship with regard to equity was being severed and not his client relationship with Wyda.

Ms Eberts: My understanding, and what I was hoping to convey, was that the relationship, as it had been described to me, that is including the equity participation, including the contingent share of monies obtained, and including the participation by Mr. Caplan in a front line role putting forward the proposals to Ontario funding sources, should stop.

The Vice-Chairman: Okay. And then your further testimony, then, is that, as we see in the August 6th, 1985 letter from Wilfred Caplan to Elinor, as I understand your testimony: 1) you are not sure that the letter was signed and sent; 2) if indeed Mr. Caplan did go to Damaza to sever his relationship and was then persuaded not to do so by Wyda, that that was not the intent of your July the 8th letter?

Ms Eberts: With respect to the August 6th letter, let me just reiterate. My information is that this was a draft that I obtained -- that was sent to me by inadvertence. It was never formalized or finalized and actually sent by Mr. Caplan to Mrs. Caplan.

As far as the dealings with Wyda that it records in its first paragraph, I have no direct knowledge of the dealings at all.

The Vice-Chairman: Thank you, Mr. Chairman.

Do you have any knowledge, then, as to who prepared the draft of the August 6th letter?

Ms Eberts: No, I don't.

The Vice-Chairman: So you don't know if it was prepared by Mr. Caplan or by somebody on his behalf?

Ms Eberts: My understanding was that Mr. Caplan did not prepare this. It was a draft prepared by someone else for his review and approval or whatever, and that he didn't approve it, and that it wasn't sent.

The Vice-Chairman: So, in a nutshell, then -- this is really what I'm trying to get at -- if Mr. Caplan went to Wyda to sever the relationship entirely, that is not what you intended by your July the 8th letter?

Ms Eberts: I intended that he get out of the relationship that he had described to us with the three elements that we talked about.

As far as any other possible involvement with Wyda, it was not really a matter that I considered to be within my continuing purview, if you will. It was something that he would have to take up with Mr. Wright.

The Vice-Chairman: Thank you.

July 3, 1986

(Mr. Gillies)

Thank you, Mr. Chairman.

The Chairman: Mr. Gillies.

Mr. Philip.

Mr. Philip: I want to follow along the lines of Mr. Gillies for just a few minutes.

If, in your letter of July 8th, you meant only the changing, if you want, or the severing of the equity share of the front-line negotiations and the taking of a share, why would you use the word "sever" rather than "redefine the relationship," since the relationship of Caplan with Wyda was broader than the three things that you've just mentioned that you'd like severed?

Ms Eberts: I think that I may have to invoke a little hindsight here -- not mine, but yours or this committee's. I think that events have shown that the relationship continued in a different way or in a wider way than was discussed at that point.

What we discussed with Mr. Caplan was an existing relationship that had a certain configuration. We did not explore with him all the sort of "what ifs", like, "How could you restructure it? How would it be different?" We told him what not to do, but we did not, in a very elaborate way, talk about how it could be redefined. And because we had not talked about how it could be redefined, I did not address that in my letter.

Mr. Philip: But in this letter it doesn't tell him what not to do; it tells him very specifically to sever a relationship, and it's very unspecific about what not to do. Would you agree with that?

Ms Eberts: Well, it says "sever the relationship," and I was counting on the awareness of the context that obviously Mr. Caplan certainly would have. He knew what relationship he had discussed with us, and that was the one that we were telling him he had to get out of.

Mr. Philip: But part of this context was the context that he was the vice-president, he was a financial consultant to that company. Why would you tell him to sever part of the relationship without defining

(Mr. Philip)

which part you wanted severed?

Ms Eberts: I told him -- and you're saying why. In hindsight, I suppose if I had sat down at the time and said, "A year from now there will be a parliamentary inquiry into this and you'd better dot all the i's and cross all the t's," I might have written him a six-page letter setting out all the details of everything that we had discussed.

What I was doing in this letter was intended as a summary sort of checklist. It relied on some background and some context that he had, and it hit the highlights, if I can use that colloquial expression.

Mr. Philip: But there are only five things that you've really had to deal with, and three of them you're saying now in hindsight you wanted severed, and two of them you didn't. The two that you didn't were the vice-presidency and the fact that he remained in the financial consulting service.

Now, you don't need a six-page letter to say, "I want you to sever your relationship on three out of five areas in which you're involved with this company." There are only five that I can think of. Maybe you can think of another way of breaking up this relationship, but there are five ways or five possible functions, if you want, of his relationship with this company. Three, now you're telling us, are the ones you wanted severed, and the other two are okay. But in fact your letter tells him to sever his relationship rather than to redefine it, which would be a more appropriate way of describing what it was that you wanted to do.

Would you agree that perhaps the word "redefine" -- in hindsight, the word "redefine" would be a better description of what you wanted him to do?

Ms Eberts: Well, I was just going back and checking my notes of that meeting that I had with Mr. Caplan and Mr. Wright trying to see if there was any note in there that he was actually a vice-president of Wyda. Because I must tell you that my recollection is that we did not talk about him being a vice-president of Wyda at that time. There's not anything in the note that reflects that he told me he was a vice-president of Wyda. He's the president and sole officer of Damaza Consultants

(Ms Eberts)

Limited, but I don't have a recollection that he actually talked in terms of him having offices in Wyda. We talked about him certainly not being a consultant.

And so, as far as I was concerned, that we weren't talking -- my letter wasn't dealing with, as you said, three out of five elements; it was dealing with material elements of the relationship that we discussed with Mr. Wright on that day.

Mr. Philip: So you're saying you had a meeting with him to deal with his relationship with the company without ever speaking to him or discussing with him whether or not he was an officer of that company?

Ms Eberts: He told us that he was a consultant in the company, or to the company, that his company was consulting with Wyda, and it was presented to us as a company-to-company transaction.

Now, again, perhaps with the wisdom of hindsight, and had I know that almost a year to the day we'd be in these proceedings, I might have cross-examined him on the question of his corporate offices. It didn't come up; it wasn't suggested by the relationship as it was described to me. It was a consulting relationship.

My understanding of consultants is that they don't inevitably take on corporate office in the company to which they are consulting.

Mr. Philip: You are telling us, though, in the previous sentence that you have advised Wilf the contact with Damaza -- by Damaza with agencies of the Ontario Government looking for investment capital would present difficulties to Mrs. Caplan.

Surely then, if you are dealing with the difficulties, you would have explored his complete relationship with that company. And you are telling us that you didn't explore his complete relationship with that company. I mean, if you are going to tell somebody then that there is going to be difficulties one would think that you would say to him, "Look it, Wilf, tell us what your relationship, your complete relationship is with that company so that I can advise you."

Ms. Eberts: On the basis of that meeting that we had with him and on the data that he provided to us there was nothing to suggest at the time that he had not told us about his complete relationship with the company.

The relationship as he described it had an internal consistency to it; it hung together; it looked like the kind of business arrangement that a consulting company would have with a company. He told us that he would be taking equity if he were successful. I inferred from that that he did not then have an equity participation in Wyda. If you don't have an equity participation in the company I would suggest that it is not inevitable or it is not likely or whatever that you would then be a high officer in that company. Of course you could.

The combination of then having no equity and having a consulting relationship and the other elements that he described at that time did not suggest that it was incumbent upon us on that occasion to cross-examine him on the subject of whether he had any offices in the company to which his company was a consultant.

Mr. Philip: Well, I would suggest to you that that is purely conjecture and I find the conjecture hard to accept.

Let me ask you another question on this: what do you mean by, "However, should the condition of PEC deteriorate so that claims wind up being made against it, it might be a good idea to have further consultations

(Mr. Philip)

with Blenus Wright as to the best way for Wilf to protect himself from indirect adverse consequences."

What are the kinds of indirect adverse consequences you envisage and what are the kinds of conditions of deterioration you might envisage in that rather long sentence?

Ms Eberts: The discussion that we had with him about PEC was a fairly summary discussion. He indicated that some of the investments of PEC had turned out to be not so great and that there were some difficulties looming; it had not gone into receivership at that point. This was intended as a flag.

I saw at that time that my role in this whole process was not going to go on indefinitely; that there would be a handoff to Mr. Wright when the government was formed and when -- until they had full access to his services; and what I was flagging for the Caplans at that point was that instead of just being concerned about it in private if something should come up, they should go to Mr. Wright and they should talk to him about what was coming up.

I had no way at that time of predicting what might come up whatever, but just saying, "Look, don't sort of sit and stew about this without taking any advice." If it does deteriorate, on the basis of what I heard at the time, that there was some possibility that it might, I was saying, "Go and get some advice from Mr. Wright. Don't just stew about it in isolation."

Mr. Philip: I am just a layman; I am not lawyer. But does it not seem to you in reading that, it certainly seems to me that perhaps what you are saying there is, "You had better be careful because something may happen at PEC that will create a perceived conflict of interest."

Ms. Eberts: As I told you yesterday, I have not ever seen a concept of a perceived conflict of interest as being part of these guidelines. I feared in fact that the concept, that really belongs in quite a different system of conflict of interest administration. And so I do not agree with the words that you have read into my

(Ms Eberts)

letter.

Mr. Philip: Okay. Let's deal with the concepts that we have just talked about.

At your briefing for cabinet ministers or would-be cabinet ministers, or whatever they were at the time that you held your workshop, I wonder if you -- and I can ask you to turn to Tab N7 -- I think it is N7. Page 2. " . . . in which you have some elements of the approach would be . . . " and items 1 and 3, and I will just read them into the record: "When there is any doubt about whether a course of action is accepted or not, it should not be undertaken . . . " and number 3 is: " . . . the onus of preventing real, apparent or foreseeable conflicts rests with the elected official. This person is responsible for informing staff of the criteria affecting him or her . . . " and then, " . . . so that the efforts to comply with the letter and the spirit of the conflict prohibition will be continual and concerted."

Now, as I understand it you did cover each of those three points which would mean that you, in your workshop, in fact you did cover points 1 and 3 which I have just read; is that correct?

Ms Eberts: Well, the document that you have before you now is something that I prepared for the other members of the transition team with whom I discussed the issue of what policy on conflict of interest should be recommended to Mr. Peterson. This document did not form the basis of discussions with members of caucus.

As far as my discussions with members of caucus are concerned, that briefing was basically to cover the Legislative Assembly Act, and the obligations under that, which is common to all MPPs. It went through the Davis guidelines, as they then were, with an indication that there might be some changes in those. And then I make a sort of a shift of gears between the Legislative Assembly Act and the guidelines on the one hand, which I think are the so-called laws relating to members' conduct, and to the question of what might people think about what you do; and that is really point number 2 there, that the point I was trying to make that when you are in opposition you don't develop an instinct for how things

(Ms Eberts)

are going to appear in the paper if they are written up there.

Mr. Philip: Okay. But in one form or another you in fact covered points 1 and 3 in that workshop, whether you used them as points 1 and 3, but you dealt with the concept of 1 and 3 and now, from what you have said, possibly 2, in that workshop?

Ms. Eberts: No, I am sorry, I dealt with, if any of those points on there, I dealt with number 2; I did not get into 1 and 3.

Mr. Philip: Okay. Would you agree then that at least number 2 is in fact another way of saying you have got to be careful about a perceived conflict of interest?

Ms. Eberts: Well, I really have difficulty with the phrase that you use, and that is "a perceived conflict of interest," because I was making a distinction, and always did make a distinction in our dealings with them, that what is the law on the one hand, the strict criteria that are supposed to cover your conduct, and then the issue of, I guess you could call it as I called it from time to time, the "optics" of a situation, how does it look. And I was not considering the optics of the situation as having anything to do with whether there was a breach of the guidelines. The message I was trying to make was that even though there is no breach of the guidelines, some things might get you into difficulties in the paper. So be careful. Start thinking that way.

Mr. Philip: Would you agree then with the word "apparent"? Is that a more acceptable word to you than "perceived"?

Ms Eberts: Well, the concept that I used always was "Optics" -- how does it look?

Mr. Philip: Well, you know, to me "Optics" and "Apparent" are the same thing. I do not need an optometrist in here to give me those definitions, but I think I am correct in saying that.

All right. Would you agree then that Item 2 essentially is a similar concept to that found in the federal study, "Conflict of Interest and Post-Employment Code of Public Office Holders", January 1st, '86, in which it says, "Conforming to this Code does not absolve individual public office holders of their responsibility to take such additional action as may be necessary to prevent real or potential or apparent conflicts of interest"? Would you agree with No. 2 and what I have just read from the federal study? Is that fairly similar?

Ms Eberts: I think the difference there is the concept of responsibility, and the fact that the federal guidelines actually in terms impose a concrete responsibility which conceivably can be enforced in some way on the individual, whereas the admonition, or the sort of comment, "Look out. Be careful. You have to now start thinking about how things look," is not a system of law or of governance imposing an obligation on you. I think there is a difference, and I think that when you consider the difference between the relatively minimalist Davis approach and the relatively small machinery of administration that was in place in Ontario at that time, and the very large machinery of administration and enforcement that is in place at the federal guidelines, you would expect to see in the federal guidelines more I call them legal or quasi-legal obligations.

Mr. Philip: I do not want to deal with how it is administered or who is responsible for it, but I want to deal with the concept of apparent conflict of interest, and the point that I am making is, and I suggest to you that the Item 2 that you had had some hand in preparing and the apparent conflict of interest or potential conflict of interest in the federal system is similar. May I also suggest to you that you look at the Davis guidelines, and I refer you to page 6 -- I am sorry; it is Tab B -- the first part, the Davis guidelines, and it suggests, "The guidelines which I have

July 3, 1986

(Mr. Philip)

established are not exhaustive nor could they in reality embrace all possible situations representing or suggesting a conflict of interest."

The Vice-Chairman: You have one minute left.

Mr. Philip: May I ask you, is the suggesting of a conflict of interest, and then I refer you to the Peterson guidelines, which are on page 3, which just follow, "The guidelines are not exhaustive, nor could they in reality embrace all possible situations representing," or again, the use is "suggesting a conflict of interest." May I ask you, are you not just playing word games with these and trying to rationalize the fact that throughout all of these documents there is a consistent admonition, be it in your letter to Wilf, be it in the federal guidelines, be it in the Davis guidelines which suggest or suggesting a conflict of interest, or be it in the Peterson guidelines which suggest or suggesting a conflict of interest, that there is a consistent theme running through them that apparent conflict of interest is in fact part of the consideration that a Cabinet minister must deal with, and that it is because of that apparent conflict of interest that you have asked Mr. Caplan to sever his relationship in your original letter to Mrs. Caplan?

Ms Eberts: I do not think that I am playing word games with you. I think that it is very important to appreciate the difference between things that are in law and enforceable guidelines and things that are saying to people, "Don't be stupid." And sometimes you can say to people, "Be careful, use your judgment, don't get into political hot water," and if they get into political hot water, that does not necessarily mean they have breached the guidelines, the law, but it means that they may have got into political hot water, and I think that you have to look at the ---

Mr. Philip: May I suggest to you though that they are imposed, they are in both of the guidelines, they are in the federal guidelines as well, they are in the Davis guidelines, the last paragraph, and they are in the Peterson guidelines, and no matter how you may try to rationalize it, those will not evaporate, they are there whether you use the word "suggesting conflict of

(Mr. Philip)

interest", whether you use the word "apparent" or "perceived", or whether you use the word "potential", that concept is there and you can rationalize it all that you want, but it is there and it will not evaporate.

The Vice-Chairman: Mr. Polsinelli.

Mr. Polsinelli: Thank you, Mr. Chairman. I, of course, will not be using my full 20 minutes, but Ms Eberts, I would like to perhaps confer with you on one or two issues, and I would like to start with Mr. Philip's last point.

As I understand your testimony, it is your opinion that the guidelines provide a code of conduct, almost like the Ten Commandments, "Thou shalt not do 1, 2, 3, 4, 5, 6." A breach of those six items or 10 items, whatever number of items are clearly enunciated in the guidelines, would constitute a breach of the guidelines. That last sentence, then, we have in the guidelines is a general admonition saying clearly, "Don't be stupid. Don't get yourself into a situation which may appear to be unclear, which may put you in a politically embarrassing situation," but something like that would not be a breach of the guidelines. The guidelines are clearly enunciated. They are rules and a code of conduct that ministers and parliamentary assistants and confidential staff have to abide by. Is that a correct interpretation of what you have been saying?

Ms Eberts: I think that that is a good interpretation of what I am saying. I think there is a fairly substantial tradition in our system of law that people are given clear rules about how their conduct should be governed, and they are told, "You can't do this, you can't do this, you have to do this, then the following," and you cannot really have a system of law that says, "Oh, here is this general basket case and if it appears to anybody that something is going awry here, then you are also going to be guilty," because the paragraph does not say appear to whom, suggests to whom, whether it be one person, 12 people, 50 people, a person who is in the position of deciding and given the authority by the Legislature to decide, or just 10 people who write a letter to the editor, and I do not think that

(Ms Eberts)

it is fair in the circumstances to say that something (Ms that is as broadly worded as that and as generally worded as that and gives so little guidance about whose opinion is going to be disposed can be considered to be anything like a formal legal obligation. It is hortatory. It says, "Be careful. There are shoals out there," but it does not come in the form where you really could fairly expect somebody to have it applied to him after the fact and say, "Right, you breached that clear guideline." It is not clear.

Mr. Polsinelli: All right. But the guidelines, then, I think we are in agreement, do clearly establish certain rules; a breach of those rules would constitute a breach of the guidelines and the person, the minister or whoever, would be in a conflict of interest situation.

Following on that point, Mr. Caplan obtained advice from yourself. Mr. Caplan also obtained advice from Blenus Wright. As a result of that advice, he rearranged his affairs with the Wyda Corporation, Wyda Systems. Are you familiar with the new arrangement that Mr. Caplan entered into?

Ms Eberts: No, I am not.

Mr. Polsinelli: If you have the binder in front of you, if you turn to Tab I, page 5 is a letter from Wyda Systems to Mr. Caplan.

Ms Eberts: Tab I, did you say?

Mr. Polsinelli: Tab I, page number 5.

Ms Eberts: Is that the one dated January 1, 1986?

Mr. Polsinelli: Yes, that is the letter from Wyda Systems to Mr. Caplan.

Ms Eberts: Yes, I have it here.

Mr. Polsinelli: And that outlines the new arrangements that Mr. Caplan entered into with Wyda Systems, or which Damaza entered into with Wyda Systems. If you look at paragraph number 2, it indicates that

(Mr. Polsinelli)

Damaza will receive and will continue to receive \$2000 per month regardless of the amount of time spent on any engagement, and upon the arrangement of second-round financing, Damaza, Mr. Kaplan's corporation, will receive \$50,000 upon closing, would receive an additional \$50,000 closing on the -- if it were a limited partnership, plus would receive five per cent of the profits from Wyda for 1987 and 1988 to a maximum of \$600,000. However, the letter goes on in the bottom paragraph, and it indicates that if the source of financing is through a ministry or an agency of the government, that the only fee that would be payable to Damaza would be the \$2000 a month flat repayment.

Given that as the arrangement that Mr. Caplan entered into through his company, Damaza, with Wyda Systems, in your opinion, and recognizing that your net is a narrower net than that cast by Mr. Wright, or a wider net than that cast by Mr. Wright, the Assistant Deputy Attorney General, is that a breach of the guidelines as you understand them?

July 3, 1986

Ms Eberts: The way I would approach that question is to look at this arrangement and say that what he's getting here is a fee of \$2000 for doing this work and he's not getting any of the contingent or equity interest. So then I go back to the guidelines and I say, "Is the receipt of a fee of \$2000 from a company, something that constitutes Mr. Caplan being contractually involved with the Government of Ontario or his private company being contractually involved with the Government of Ontario?"

I would say, Damaza itself doesn't have any direct contractual involvement with the Government of Ontario or with any of its emanations or any of its Crown Corporations or boards or anything? The Damaza relationship is with Wyda and the relationship is simply one of fee for service, \$2000 a month for doing certain work, and I don't think that that constitutes being contractually involved with the Government of Ontario on the wording of the guidelines. I don't think that if you just look at the \$2000 that it is even necessary to go to the exemption of his company and he is not contractually involved with the Government of Ontario at that point in this arrangement.

Mr. Polsinelli: So, then, under this arrangement, it is clearly your opinion that Mr. Caplan was not in a conflict of interest situation?

Ms Eberts: Not on the basis of this.

Mr. Polsinelli: On the basis of this arrangement. Are you familiar that I believe on April 12th of this year, the financial package between Damaza and Wyda was changed and that my understanding, and I guess we'll have to wait for Mr. Caplan's testimony, but apparently, for -- well, for whatever reason, and I think it's fair to wait for Mr. Caplan's testimony as to what the reason was, the financial package was changed from this \$2000 a month retainer plus the contingency fees upon the closing of the particular transactions to one of a straight retainer of \$8000 a month.

Would that new arrangement constitute, in your opinion, a breach of the Conflict of Interest guidelines?

Mr. Bell: This is a habit that I have in another forum. I think in fairness, could the witness

(Mr. Bell)

the document that is part of this material? It's Page 13 of the same tab.

Mr. Polsinelli: Thank you. It's a letter dated April 14th from Damaza to Wyda.

Ms Eberts: Dated April 14th, 1986?

Mr. Polsinelli: Yes. I would point out also, Ms Eberts, that this new arrangement was entered into after financing had been secured by Wyda from the IDEA Corporation.

Ms Eberts: Well, just looking at this letter, I think I would need a bit more information before coming to a conclusion. Someone here may be able to provide it to me. Is the intention of the April 14th, 1986, letter simply to insert the figure of \$8000 in place of the figure of \$2000 and leave everything else the same?

Mr. Polsinelli: No, Ms Eberts. My understanding is that the complete package was renegotiated and that it is now a straight retainer of \$8000 with no contingency fee to operate on a month-by-month basis.

Ms Eberts: So it is still a fee for service arrangement?

Mr. Bell: I think this will simplify things. The evidence is as of now, and I believe this will be the evidence, the January 31, '86 agreement was replaced by the April 14, 1986 agreement, as supplemented by details which you will get from witnesses who negotiated this April 14th arrangement as for duration and other circumstances. You may want to ask those questions, but no, the equity or the profit participation and the \$50,000 lump will replace, we understand, for all purposes.

Ms Eberts: Well, I would still look at this in terms of the question that's posed in the guidelines and that question is, is Damaza a private company in which Mr. Caplan is involved, a company that is contractually involved with the Government of Ontario? Damaza, on the basis of this, is involved with Wyda and there is a

(Ms Eberts)

contract that provides a fee for certain services. So on that reading of the guidelines, it's not contractually involved with the Government of Ontario. We're at least one removed from the Government of Ontario.

Mr. Polsinelli: Yes, Mr. Bell, I think counsel wants to interject.

Mr. Bell: Yes, I think it will help because we're on a very important point. Your line of thinking tracks that Damaza is not in a contractual relationship with the Provincial Government or any of its Crown agencies, therefore we don't have a conflict.

Can you comment on the matter of what the guidelines say where it says "No private company"? I guess you have to ask a lot of questions. Can you comment on the perspective of the relationship between Wyda and IDEA as a Crown agency? That's the only contractual relationship. And then can you examine, I think in the context of Mr. Polsinelli's question, whether, on the basis of what you've been shown this morning, plus whatever other information you may think you need, whether in your interpretation of the guidelines, Wyda is a private company in which Mr. Caplan has an interest?

Ms Eberts: I don't have any information about the nature of the relationship between Wyda and IDEA. I haven't seen any of their instruments or documentation reflecting what that deal is.

Mr. Bell: Okay, but this is very important for this Committee that you understand what it is set out to do and would you agree that that is one of the appropriate considerations for this Committee in this exercise is to examine the scope of the relationship between Wyda and IDEA and then to examine the scope of the relationship between Mr. Caplan and Wyda concurrently and then, having examined those two relationships, examine those in connection with what the guidelines say?

Ms Eberts: Okay, I think that I would agree with you. I think you do have to say, "Is Wyda a company in which Mr. Caplan has an interest as defined in the guidelines?" And then, if you are asking further questions to go on down that road and you see if the arrangement is a fee for service arrangement, some of the people in this room are familiar with fee for service arrangements, some of the people who are parading around outside the Legislature are familiar with fee for service arrangements.

If I get a fee from one of my clients, I don't necessarily consider that I have an interest in that client. They pay me for services just the way they would pay to buy office equipment or to do the shrubbery in front of their building and I don't think that their landscape architect has an interest in the company. It's a transaction. So that's ---

Mr. Bell: All right. Forgive me, Mr. Chairman, I'd really like to get these because it is very helpful. When the Committee goes to examine those two relationships in the context of the guidelines, if you were part of that process, what types of information would you want to know about and can I just list -- would you want to know and satisfy yourself what the nature and extent of the services that Mr. Caplan was rendering to the Wyda Corporation?

Ms Eberts: I guess the main question I would ask is what is his real relationship with the company, because you can look at the documents and you can look at what's actually going on. If I were approaching this as the Assistant Deputy Minister in the Department of the Attorney General being consulted about a conflict of interest, I would want to find out what is the real relationship that exists between him and the company and look at it in its various ramifications.

Mr. Bell: But you would also want to know what he really did in respect of the Wyda matter, wouldn't you ---

Ms Eberts: Yes, I would ---

Mr. Bell: --- as, or on behalf of Wyda Corporation?

Ms Eberts: Yes, I think that's quite a sensible question ---

Mr. Polsinelli: Would you be concerned, Ms Eberts, as to whether Mr. Caplan or his company was adequately compensated under the first arrangement? Would you also be concerned as to whether adequately compensated under the second arrangement in determining what his relationship was with Wyda? Would compensation for the fee for service come into consideration in determining what the relationship was between Wyda and Damaza -- or Wyda and Caplan?

Ms Eberts: I think the second way you phrased the question is the relative one in the sense that the nature of the conversation, both in its amount and its type, is relevant to the nature of the relationship. I don't know whether I would focus on the dollar amount that was passing between the people as ultimately disposed items. I think I'd look at just the package, if you will.

Mr. Polsinelli: Well, in dealing with that package -- Mr. Chairman, I apologize because I am going on a lot longer than I intended to -- but in dealing with that package, and in determining whether or not it was purely a fee for service arrangement, would you not want advice from other members in Mr. Caplan's profession to determine whether or not under the first arrangement the 2000 per month fee was adequate compensation and was what the market would bear, and whether the 8000 per month fee was adequate compensation for someone with his skill and capacity and ability?

Ms Eberts: I think it would be useful to look at the market rates for compensation, but I would like to look at the market rates for compensation in this business, again in light of the total package, as I said.

Mr. Polsinelli: Thank you very much, Mr. Chairman.

The Chairman: Thank you.

Mr. Pope?

Mr. Pope: Thank you, Mr. Chairman.

Ms Eberts, last night you claimed a solicitor/client relationship -- and maybe I can go back to that -- and therefore that certain information was protected by confidentiality.

The question I asked last night and I want to put on the record that any subsequent questions will not be to ask you to produce documents -- just so you understand where I am heading, I am not going to ask you to produce documents that were given to you by members of the Liberal caucus or prospective cabinet ministers ---

Ms Eberts: I understand that.

Mr. Pope: Okay. Can you tell me where individual members of caucus and prospective cabinet ministers filled out information forms which they delivered to you and you were available discuss potential problems with them -- and there is nothing unusual about that -- what happened to those documents?

Ms Eberts: The originals of the forms and any reporting letter that I did -- and you have an example of the reporting letter that I did for Mrs. Caplan -- the originals of those went back to the person in question. The office copy, if you will, the carbon copy or the photocopy of the form -- for each person who consulted me, I have made up, by my secretary, a brown envelope, and into that brown envelope is put the office carbon of the letter and a photocopy of the form that I had returned to the person in question. The envelope was sealed, and on the outside of the envelope was written the name of the person whose documents were within it.

There was a set of envelopes as a result of this process, all sealed, and each with a name on the outside. Those envelopes were put inside a double set of accordion folders, put in and then another accordion folder put on top, and they were bound up -- the accordion folders were bound up with tape and there was an identifying logo put on the outside -- I can't recall what it was; it was my name and documents from office review, or whatever, just so that it could be found.

July 3, 1986

(Ms Eberts)

I would not want to keep these documents in my own files because of their highly sensitive nature. I returned them to the office of the then, by that time, Premier, with a request that they be stored on my behalf in a vault to which they have access. I'm not sure which vault it is.

I have checked to see -- and the request was that none of those documents ever be opened by anyone but myself, because they were my documents, and they were confidences that had been given to me.

I have ascertained that those documents are still in storage as I had requested, and they are all still sealed, as I had requested. The only exception is that one.

The document that I sent to Mrs. Caplan has now been retrieved and has been produced to this committee because the Caplans have waived their solicitor/client privilege. All the others still repose in the manner in which I told you. I assume that the other covering had to be broken in order to get Mrs. Caplan's letter, but my information is that all the inner envelopes are still sealed up, as I had asked that they remain.

Mr. Pope: Was there a letter of delivery to the Premier setting out the conditions?

Ms Eberts: There was not a letter of delivery setting out in a formal fashion those conditions. I made those arrangements with Mr. Ezrin, and it was done by word of mouth. I had his assurance that they would remain confidential and I relied upon that.

Mr. Pope: Then if you considered those documents to be yours as a solicitor, then why would you send them to the Premier's Office?

Ms Eberts: They were put at that point in the vault for safe-keeping. The arrangement that I have in my office -- and I have several filing cabinets of my own -- and then we have the firm vault as well, into which a number of persons in my firm have access, as is the case in most offices. There are clerks that run our vaults that also -- it's conceivable that other people could have access to it.

(Ms Eberts)

I was concerned that the documents might, through inadvertence, be disclosed. I was very sensitive about their confidentiality and the harm that could come to the individuals concerned, and considered that the safest place for their safe-keeping would be in a vault at Queen's Park with a personal undertaking from the Principal Secretary to the Premier that they would be kept confidential.

Mr. Pope: Why wouldn't you just destroy them?

Ms Eberts: Why wouldn't I just destroy them?

Mr. Pope: It's the best way to preserve their confidentiality.

Ms Eberts: I suppose that was an option open to me, but I decided that it was not suitable to just destroy the documents that they had given. The document that I produced to you from Mrs. Caplan in this hearing, is in fact my file copy of that letter. I think that it is unfortunate in some circumstances if people have to say, "Did you receive a letter?", and "Where is it?", "Oh it was lost or destroyed". I don't think that that creates a very good impression; so that I thought that it was more in the interest of the people who had consulted me that there be a record copy of the information that had passed between us. But I was most alive to the possibility of harm that could result from not having them kept in the safest possible place.

Mr. Pope: I think we all that you have been forthcoming in terms of the documentation that you have given to this committee, and all of the documentation that we now have from your office. Do you know who has access to the Premier's vault?

Ms Eberts: My understanding is that those documents are being kept confidential and in safekeeping by Mr. Ezrin himself.

Mr. Pope: And that no one else has access to them.

Ms Eberts: That's my understanding.

Mr. Pope: If I could ask a specific question with respect to the Caplans' documents. Is there any difference between the Caplan information given to you at the beginning of this process, and the documents filed with Blenus Wright?

Ms Eberts: I would have to look at the documents filed with Blenus Wright. If you have them here

Mr. Bell: Would you look to tab number H, and Mr. Pope, you're going to have to select-- if you recall there were two filings ---

Mr. Pope: Yes.

Mr. Bell: --- page nine is the document prepared as of January of '86, and then if you go, I think it's page 13, you'll see the filing as for March 1986. I believe that's the two dates. I think for Ms Ebert's purposes, the first filing might be the more relevant because the only difference is the abolition of the Taurus Company and Mr. Caplan's current position ---

Ms Eberts: I'm sorry. I've got the bundle, but I'm not -- I don't have the page numbers that you're referring to; so I don't know which one you're asking me to look at.

Mr. Polsinelli: It's the last page, it's page thirteen.

Ms Eberts: Is this the one?

Mr. Bell: The easiest thing is to find the letter dated January 6th '86, and turn the page.

Ms Eberts: Based on my recollection, the first thing that I notice is that the pages are turned around a different way. The forms that I asked people to fill out were all sideways, and Mrs. Caplan did disclose to me that she had an interest in some Royal Bank shares. Preferred shares. I think it was Royal, but I'm not sure. It was a bank; but she was then advised to sell or put them in a blind trust, and she has indicated here she has no shares in public corporations placed in trust. So I assume that she sold them. They don't show up on here, but they did show up on the original one for me.

Mr. Pope: Are you aware of any change in the information next to Damaza Consultants Limited?

Ms Eberts: She shows on here Damaza Consultants that it's a private active company, and that she holds two voting shares.

Mr. Pope: That appears to be what it shows. Mr. Wright got into some discussion with committee; in effect, Mr. Caplan previously, in other documents, had disclosed he had two voting shares, and there was some discussion about whether or not there was three or two, and what happened to the extra share.

The information you had from your own notes from the June 24th '85 conversation was two shares were owned by Mr. Caplan and one by Mrs. Caplan.

Ms Eberts: That's my recollection also of what she told me in the meeting I had with her.

Mr. Pope: And you can't recall what she wrote on the information forms that you obtained in May/June of '85?

Ms Eberts: I'm trying to cast my mind back, and picture ---

Mr. Bell: If you look to your tab 10, your note, presumably June the 24th, you've made some entries right at the top of the first page as for her holdings, or -- and presumably her husband's holding in Damaza.

Ms Eberts: I'm trying to picture the form that she put in and I think that she did actually say that she did have one share in Damaza, in that form. But I don't recall it being formulated. There was -- because it was, if you will, an exercise -- there was less detail than you see here. I don't recall, for example, the designations 'inactive' and 'active' being used. I think it was an indication that there was one share in this private company that was in the consulting business.

Mr. Pope: But you can't recall the information on the form that she filled out in May or June, and it's no longer in your possession in any case?

Ms Eberts: I think it was one share, and it was

July 3, 1986

(Ms Eberts)

in a private company, and in was in the consulting business, but it wasn't designated as active or inactive.

Mr. Pope: In light of the answers to the questions that you -- that Mr. Polsinelli posed, why was it necessary to send, in writing, your advice of July the 8th?

Ms Eberts: The process that we were going through in that period was a fairly compressed one as far as time was concerned. There was a mass of detail that everyone was dealing with. I was very impressed with the willingness of people to stay on the right side of the guidelines. I thought it would help if they had a piece of paper with a form of checklist, almost, that they could use as an aide-memoire to go down and record the conversations that we have had. So that it was intended to be helpful to them, and something that they could use to get themselves organized.

Mr. Pope: Did every cabinet minister get a similar letter?

Ms Eberts: No.

Mr. Pope: How many cabinet ministers did?

Ms Eberts: I can't recall actually. Not everybody availed themselves the opportunity to consult with me, and I don't have a detailed recollection of who did and who didn't.

Mr. Pope: By July the 8th, 1985, Blenus Wright was responsible for the administration of the conflict of interest guidelines. You yourself indicated that you were on a temporary timetable and were pulling out. Why would you not leave it to Mr. Wright to give the formal advice on behalf of the government to the ministers?

Ms Eberts: Well, Mr. Wright was going to give the formal advice on behalf of the government to the ministers. There was contemplated, the stage that the changes to the guidelines that were going to be made, would be made in a formal way. Those guidelines would be sent to Mr. Wright. Mr. Wright would go through the exercise of sending the letters to the cabinet ministers,

(Ms Eberts)

the package, that would be the updated version of the one of the one I've produced to you, and he would ask them to fill out all these forms and send them back into him.

But that was going to take place probably August or September. In the meantime, if people had indicated a willingness to get themselves onside, and were taking the steps to get themselves onside, even if Mr. Wright hadn't yet formally entered the picture, then there didn't seem to be any reason why they should put their compliance efforts on hold, waiting for Mr. Wright. They could go ahead with them.

Mr. Pope: I would like to turn to tab 15 of your documents. Who told you that Mr. Caplan did not write that letter?

Ms Eberts: Mr. Caplan.

Mr. Pope: Mr. Caplan. When did he tell you that?

Ms Eberts: Oh, it was fairly recently..

Mr. Pope: Did you have a meeting with Mr. Caplan recently, with respect to giving evidence in front of this committee?

Ms Eberts: It was necessary for Mr. and Mrs. Caplan to consider whether they would waive their solicitor-client privilege, and I considered that before they could do that, they had to be aware of what the situation was. I understand they did have advice to the situation, and they authorized me to waive the privilege with respect to the documents I had.

In order to put them in the picture about what a waiver of privilege would constitute, I produced to them the documents that I had, that I regarded that have to be disclosed to the committee pursuant to its subpoena. And in the course of doing that, I did meet with both Mrs. and Mr. Caplan to let them see the materials that I had.

Mr. Pope: When was that meeting?

July 3, 1986

Ms Eberts: Oh, it was, I think, the day of or the day after the subpoena. I think I spoke with them by phone the day I got the subpoena, and I met with them both in person the day after.

Mr. Pope: Did you discuss at that meeting -- that puts it about a week and a half ago, by the way -- did you discuss with them at that meeting approximately a week to a week and a half ago anything other than a solicitor/client privilege?

Ms Eberts: I don't understand the question.

Mr. Pope: Was there anything else concerning your testimony and their testimony discussed at this meeting that you held with them other than their privileges and the production of information?

Ms Eberts: We went over the documents that I would be obliged to disclose, and we also went over the meetings I had with them that I would be obliged to tell this committee about. And I had to tell them what evidence I would have to give pursuant to the subpoena that I had received. And I did that so as to allow them to consider whether they'd waive the privilege.

Mr. Pope: Was there anyone else at that meeting?

Ms Eberts: They had a solicitor present at that meeting. In the telephone conversations, obviously, there was no other person present. I had a solicitor present, and there was a student from my office present at one of these sessions, their solicitor was present, and I believe they had some -- there were people there whom I thought were Mrs. Caplan's confidential aides. But that was only for a very small part of one of the meetings.

Mr. Pope: There was more than one meeting. You said, "at one of the sessions".

Ms Eberts: Okay. It was, if you will, a rolling meeting. I began the meeting with Mr. Scott, who is my solicitor, and Mr. Caplan, and then came up to the Legislative Building to continue the meeting with the Caplans' solicitor; Mrs. Caplan, my student was there, and for the latter part of that meeting there were some -- Mrs. Caplan's people were there, but there were no --

(Ms Eberts)

in that discussion, as I recall -- the business was over by that point that I had to conduct with the Caplans.

Mr. Pope: Who else was there?

Ms Eberts: Who else was there?

Mr. Pope: Yes. You said "other people". Who were the other people?

Ms Eberts: I told you about Mr. Scott.

Mr. Pope: Yes.

Ms Eberts: The student from my office whose name is Heather Crawford.

Mr. Pope: Yes.

Ms Eberts: And at the conclusion of that meeting, there were Mrs. Caplan's -- I think there was Mr. Webster.

Mr. Pope: Mr. Webster.

Ms Eberts: A woman who works for Mrs. Caplan was there.

Mr. Pope: Who else?

Ms Eberts: At the end of that meeting, after all the discussions had finished and the Caplans had taken the decision to waive their privilege and permit me to talk to this committee, the advice that I had been authorized to talk to this committee was given to Mr. Goudge who I understand is representing the Caucus.

Mr. Pope: Mr. who?

Ms Eberts: Mr. Goudge, Stephen Goudge, from Gowling and Henderson.

Mr. Pope: Representing what caucus? Oh, he's representing the Caplans? That would be two different lawyers representing the Caplans. Mr. Goudge represents the Caucus, as far as you know?

July 3, 1986

Ms Eberts: That's my understanding.

Mr. Pope: Who else was there?

Ms Eberts: What?

Mr. Pope: Was there anyone else there, other than the people you've just listed?

Ms Eberts: At the conclusion, when the decision about the waiver of privilege was finalized, there was a very brief attendance by the Attorney-General. It was very short.

Mr. Epp: Mr. Scott.

The Chairman: I'm sorry, Mr. Pope. I'm going to have to jump in.

Mr. Wildman?

Mr. Wildman: I'll be brief. Just following along on what Mr. Pope said, could you complete the list of people who were ---

Ms Eberts: I think I have, actually.

Mr. Wildman: You've given all of them? All right.

Ms Eberts: The discussions that I had with the Caplans about my evidence were restricted to myself, Mr. Scott, my student, their lawyer, and themselves. The news that they were going to authorize me to waive the privilege was then communicated in a meeting that had the other people that I mentioned at it.

Mr. Wildman: I just want to get some clarification of the testimony that you gave last night. I found it fascinating, and, frankly, had some difficulty understanding the definitions of words.

Could you turn to tab 10(a), which is your letter of July 8th to Mrs. Caplan? And you've talked a little bit this morning about hindsight, and how you can judge what you might have said or should have said in hindsight. But I'd like to talk a little bit about foresight.

(Mr. Wildman)

In your statement here: "As you are also aware, Elenus Wright and I have advised Wilf that contact by Damaza with agencies of the Ontario government looking for investment capital would present difficulties, even if he does not take an equity in the clients benefitted or sought to be benefitted."

Surely, in making that statement to Mrs. Caplan that if Damaza was dealing with agencies of the Ontario government, looking for investment capital would present difficulties, you were foreseeing questions being raised either in the media or in the Legislature, or perhaps even this type of process.

Ms Eberts: Well, I wasn't as blessed with a particular foresight as you're suggesting. What I was concerned about was that if he did go to the agencies, sort of knocked on the door and said, "Hello, there. I'm Wilf Caplan, and I'm representing Wyda, and I'd like to talk to you about some money," if that was sort of the main contact that they had, I thought that it could well be open to misconception, and that's what I was concerned about.

Now, whether -- I can say to you that I did not clearly have an anticipation that there would be this sort of process -- but I did say that it would be open to misconception, and that's when I said ---

Mr. Wildman: Now, when you said difficulties, you meant difficulties for Mrs. Caplan.

Ms Eberts: Yes.

Mr. Wildman: And I suspect you also meant political difficulties.

Ms Eberts: Well, I'm a lawyer, not a politician, and yet some element of political difficulties did come in there. I thought that she would probably be more aware of that than I, but that was an element of what I was talking about.

Mr. Wildman: And earlier this morning, you talked about the need to -- you differentiated between what might be called an actual conflict of interest and

(Mr. Wildman)

acting stupidly.

Ms Eberts: I think I used those two terms.

Mr. Wildman: Now, would you not agree that, politically, it is the responsibility of a cabinet minister not only to avoid real conflict of interest, but also to be competent?

Ms Eberts: Well, in this connection, I think that what I had in mind there was that a cabinet minister would not -- I mean, nobody likes to be in a situation where they're going to be vindicated on technical areas that have a lot of grief in the press. And that may arise even though the minister is very competent. All it takes is one person to raise the issue. And it may be that that person turns out to be wrong about what was going on, but nonetheless the minister and his or her family and associates have endured the problem of vindicating himself or herself. And that's just extra grief that nobody needs.

Mr. Wildman: In that type of vindication which you envisage, they would be vindicated in the sense that they would be shown not to have been stupid as well.

Ms Eberts: Well, I think a person can get into this sort of difficulty even if they're not stupid.

Mr. Wildman: All I'm asking -- all I'm asking

Ms Eberts: I'm not suggesting for a moment -- and let me make this very clear -- that I'm levelling any suggestion that Mrs. Caplan's behaviour ---

Mr. Wildman: Oh, I wasn't suggesting -- I'm just interested in this little exchange in terms of the words that are being used, because you said you weren't using word games, and I understand that. You would agree, then, that it is the responsibility also of the Premier to ensure there are not conflicts of interest, and to ensure, not only legally, but politically, that the ministers of his Executive Council do not get themselves into stupid positions that could harm the government.

Ms Eberts: Well, I think that there would probably be unanimity in this House on that. I don't think that the Premier, or a Premier, however wise, can prevent every issue from arising.

Mr. Wildman: Particularly if the cabinet ministers are stupid.

Ms Eberts: No, that's not what I said. I always tell my clients, when I'm giving them legal advice, that no lawyer can prevent a lawsuit from being brought, because there are sometimes bad law suits that are brought.

Mr. Wildman: Oh, sure. Oh, certainly.

Ms Eberts: However, a lawyer can give you advice as to what lawsuits are likely to be ---

Mr. Wildman: All of us here would agree that people in the Opposition who might level charges can also be stupid, but ---

Ms Eberts: Well, I would say that is true in this case.

July 3, 1986

Mr. Wildman: But I'd like to now move to your other suggestion last night about back room as opposed to front-line negotiation and, as I said last night, it seems to me, as a non-lawyer, it really, honestly seems to me far better to be upfront than hiding in a back room. But since you indicated that you thought that it was better to be removed, don't you see the possibility that, in using your argument that if Mr. Caplan, for instance, is not directly himself negotiating on behalf of Wyda with a Government agency, but may still have a relationship with Wyda as a financial consultant and be advising them during the period when someone else from Wyda is negotiating with the Government, that you may be advising the Government on guidelines that are set up in such a way that anyone, through the setting up of a third company, could indirectly deal, continue dealing with the Government as long as it wasn't upfront?

Ms Eberts: I understand your suggestion and I think that one of the reasons why I earlier said that in assessing whether there is a breach of the guidelines, I would like to look at what is the real relationship between any particular person and the company that has the relationship with Government. I think that you always get into situations where there are formal rules about what you can and cannot do, that there will be possibilities of setting up companies or devices to try and circumvent them.

But I think that the attitude with which I approach this is that if you have people who have gone into public life, who have run for office, who have put up with all the inconvenience and the sacrifice that you have to have to get into public life, obviously they want to stay there and are prepared to give up certain things. So I approach the conflict of interest issue on the basis that most of the time you are dealing with people who, themselves, are dealing in good faith.

Mr. Wildman: All right. You, yourself, though, in this particular situation that we are considering, were unable to analyze the real relationship between Mr. Caplan and Wyda, which was negotiating with IDEA Corp. subsequently, because you did not know that Mr. Caplan was a Vice-President of Wyda?

Ms Eberts: When I met with Mr. Caplan and with Mr. Wright on that particular day, as I understood it, it

(Ms Eberts)

was a reasonably new relationship. Wyda was the first client for Damaza. I believed at the time that we had all the material facts.

Mr. Wildman: But in fact you didn't?

Ms Eberts: Well, I have no information to this day that he was on the day that he talked to me a Vice-President of Wyda. A couple of people here today have made that suggestion but I have no evidence that that was the case. That may come out in your proceedings. He may have, for all I know, become a Vice-President later but that's something that this committee will have to deal with.

Mr. Wildman: All right, we can deal with that, but the fact is that in determining if you were in a situation now of determining whether Mr. Caplan in fact had a real relationship with Wyda, which was negotiating with IDEA Corp., a Government agency, you would have to analyze what, in fact, his duties were and what his interest was in the company as Vice-President.

Ms Eberts: I think that it is always useful and successful in approaching conflict of interest questions to try to get as much information as possible. Sometimes people will tell you what they think is significant and, yet, as the advisor, you have to make your own decision about what is significant. So you really do have to try to get as much information as you can.

Mr. Wildman: We will be dealing with that, Mr. Chairman, the question of when, in fact, Mr. Caplan became a Vice-President of Wyda.

Could you turn to Tab 15? That is the draft, as you describe it, of the letter from Mr. Caplan to Mrs. Caplan, dated August 6th. When you saw that in your "In" basket and you read it, how did you interpret this statement: "When Damaza attempted to withdraw from its engagement with Wyda Systems Canada Inc., Wyda requested Damaza continue its consulting relationship with Wyda on an internal basis only with no contact whatsoever with any Ontario Government body"? Did you interpret that to mean that Mr. Caplan, that is Damaza, had attempted to

July 3, 1986

(Mr. Wildman)

sever his relationship with Wyda and that Wyda had requested him not to do that?

Ms Eberts: My impression as I read that letter and it came in and I read it reasonably quickly and had it tucked away in this file, was that he had had some discussions with them pursuant to the advice we had given him at that time, that is, he couldn't do what he wanted to do and that they had asked him to stay on doing what we had told him he could do.

Mr. Wildman: But what he wanted to do, did you interpret what he said here to mean that what he wanted to do was to sever his relationship with Wyda?

Ms Eberts: When I looked at 'engagement' and again revealing myself, in a fairly short span of time here, I didn't sit down and parse this letter like a grammar exercise; the engagement that I thought was at issue when he was writing this letter was the one as he had described it to Mr. Wright and me in that meeting, with all its ramifications.

Mr. Wildman: Okay, I'll just close off, Mr. Chairman, by I am intrigued by your definition of 'sever' as described in your July 8th letter. So in looking at that, I consulted with the Oxford Dictionary, this is a 1957 edition so there may be changes since, I'll admit. It goes on at great length, Mr. Chairman, I won't bore the committee and the witness with all of the definitions, but I'll just read a couple into the record and I'd like you to tell me which, if any, of these corresponds with your understanding of the word 'sever'. "To pull apart, set asunder"; "To part or remove by some technical process from another with which it is combined or mixed"; "To set apart or segregate"; "To divide into parts"; "To part or divide suddenly or forcibly"; "To cut in two, cleave or rend asunder"; "To break up, scatter, disperse"; "To part by violence from the rest"; "To separate suddenly and forcibly, to cut, tear or pull off"; "To divide into independent parts"; "To make a separation or division"; "To go away partly sundered"; "To be separated, quit each other, go asunder"; "To part, become divided, be separated into parts".

(Mr. Wildman)

Now, all of those, one way or the other, say put apart, to separate. Now, is that your understanding of the word 'sever'?

Ms. Eberts: Well, you've given me a lot to choose from there. I suppose ---

Mr. Wildman: Well, I could read from Milton and Tennyson as well, but I won't.

Ms. Eberts: I suppose I could give you a short answer and say 'cut'.

Mr. Wildman: 'To cut'?

Ms. Eberts: Cut.

Mr. Wildman: So when you wrote the letter July 8, you understood that what Mr. Caplan had advised was that he would cut off, I will use the word, the relationship between Damaza and its present client Wyda?

Ms. Eberts: The relationship that he had described to Mr. Wright and to me.

Mr. Wildman: The relationship that you were aware of?

Ms. Eberts: The relationship that he had described.

Mr. Wildman: Exactly. And you were aware of it and you have told us that you weren't aware that he might have been a Vice-President of the company.

Ms. Eberts: That didn't come up in the discussion that I had with him and Mr. Wright.

Mr. Wildman: But you were aware that he was a consultant to the company and you were aware then, when you wrote this letter, that he was severing this relationship as a consultant, to Damaza as a consultant to Wyda?

Ms. Eberts: Well, Damaza as a consultant that was going to take equity, that was going to take a

July 3, 1986

(Ms Eberts)

contingent fee and that was going to be the frontman for the --

Mr. Wildman: Why are putting those qualifications on it now when you did not in your letter of July 8th?

Ms Eberts: Because when I was writing this letter and when I had the meeting with Mr. Caplan, there was, as far as I was concerned, one relationship at issue and it was the one that he described to me. As events have unfolded since then, there appear to be several different relationships, or several ramifications of this relationship, and so -- and you indeed are even raising another different element now of the one that we had discussed.

Mr. Wildman: I am raising the element of the consultancy.

Ms Eberts: I think that it is fair to Mr. Caplan and to the process that we went through for me to insist that the information and the advice that I gave him be put in context, and it's in the context of the situation as it was at that time when I wrote that letter, not as it developed thereafter and not as it emerged thereafter.

Mr. Wildman: I understand that but you will agree that Mr. Caplan, Damaza, was acting as a consultant to Wyda. And you were aware of that.

Ms Eberts: It was acting as a consultant in a certain configuration.

Mr. Wildman: And that he was attempting to obtain capital for Wyda and one of those routes that he might use would be to obtain capital from a public agency?

Ms. Eberts: That's what he told us.

Mr. Wildman: Exactly. So when saying you understood that he was going to sever, you were talking about his role as a consultant to Wyda, attempting to

July 3, 1986

(Mr. Wildman)

obtain capital for Wyda?

Ms. Eberts: I'm sorry to be so tiresome about this but I was talking about the relationship in all the ramifications in which he presented it to me. He did not say, "I am a bare consultant to Wyda. I get a fee for service and do 'X'." He said, "This is the relationship I have with Wyda" and we told him that that relationship could not continue. And it was the one that

Mr. Wildman: My problem is that it seems to me that you don't mean sever, at least now you don't mean sever. You mean change. If everything you have said just now related to a sentence which says he had advised that he will change the relationship between Damaza and his present client, I would understand it, but it doesn't say that. It says 'sever'.

Ms Eberts: Well, as I told somebody earlier in these proceedings, we did not have with Mr. Caplan a discussion in which we explored ways in which he could change his relationship. That was not on the table. We did not say to him, 'Change it, go this way, go that way, go the other way'.

Mr. Wildman: You said 'sever'.

Ms Eberts: And so I would not say in the letter 'change'. I was trying to reflect the discussion. The discussion was about a particular relationship and we said, 'Get rid of it. Don't have that relationship'.

Mr. Wildman: And part of that relationship was consulting with Wyda, for Wyda?

Ms Eberts: Well, there was a relationship there that had a number of aspects and we said it couldn't continue that way.

Mr. Wildman: No, that's not what you said.

The Vice-Chairman: You're putting an incredible construction on the wording of this letter.

Ms Eberts: I am not building a construction, with all due respect. The construction is being built by the members of this Committee.

The Vice-Chairman: Well, I'm sorry. That's the way it looks to me.

The Chairman: Order, please.

Mr. Wildman: Mr. Chairman, I will just close off. I have looked extensively, I'll admit it was only one dictionary. I could have gone to Webster's, I could have gone elsewhere for a meaning of 'sever' which could mean change.

The Vice-Chairman: You could have looked up the word 'perceived'.

Mr. Wildman: And I can't find it. It just doesn't apply and I think whatever kind of construction the witness is putting on it now or even I suppose argues that she meant when she wrote the letter, the fact is she said 'sever', not 'change'.

The Chairman: All right. Mr. Ward.

Mr. Ward: Thank you, Mr. Chairman. I want to follow up on a couple of points made by Mr. Philip and a couple of points by Mr. Wildman.

First of all, with regards to the issue as to whether or not Mr. Caplan was an officer of the company, whether or not Mr. Caplan's title presents difficulty in terms of the guidelines or whether or not it's his role that presents the difficulty -- and I think we had a discussion of this last night -- what difference does it make whether he has the title of Vice-President in terms of the guidelines?

Ms Eberts: Well, I think you have to look at the nature of this relationship with the company that has the relationship with the Ontario Government. It may be that you find that this is just ---

Mr. Ward: What is the relationship? Is it the role that he's performing or is it a title that he has?

Ms Eberts: Well, sometimes it's both. You have to look at all of the factors, I think, but you can't just look at the formal aspects of how the relationship presents itself. You have to look at what it is as well.

Mr. Ward: If I can go back to the guidelines that -- the draft document or whatever it was where you suggested what the guidelines should be and you made a reference to apparent conflicts of interest, and I think you indicated that it was a case of being, or of not being stupid, I suppose. And your definition of that was not doing something that lands you in 'hot water'. How do you define 'hot water'? What is 'hot water'?

Ms Eberts: I think your counsel has answered the question.

Mr. Ward: Is the making of an allegation 'hot water' politically?

Ms Eberts: In answer to I think it was Mr. Philip's question, I did go into this a little bit. I recall that now, saying that you may get yourself into a situation where someone raises an allegation about your conduct. You know, even if it's a "three-day wonder" in the press, you've been through the aggravation of having it in the press or raised in the House. You may ultimately be totally vindicated and somebody may say, "Right, everything you did was perfectly fine but you've still gone through the grief."

Mr. Ward: So an allegation can mean apparent conflict of interest?

Ms Eberts: Well, any allegation of a conflict of interest, I would suggest, is made because the person who brings the allegation feels there's an appearance of conflict of interest.

The Chairman: I am obligated under the standing rules to adjourn the Committee to attend the House to participate in the vote and then I think we have to come back. So as soon as the vote is completed, I would ask the members to reassemble.

Ms Eberts: When will that be?

The Chairman: In ten minutes.

--- Upon recessing at 12:03 p.m.

--- The Committee resumed at 12:15 p.m.

The Chairman: Come to order, please, and resume the questioning, Mr. Ward.

Mr. Ward: Thank you, Mr. Chairman.

Again, getting back to the guidelines that were available under Tab 10 and the reference to "an apparent conflict of interest" is, I think, the words you were expounding on -- appearances, and political hot water, and exercising judgment -- how does one define an "apparent conflict of interest"?

Ms Eberts: The difficulty I have with this whole process of talking about apparent conflicts of interest is that the approach that seems to be taken by some proponents of this view really says, if anybody thinks that there appears to be a conflict, there's an apparent conflict of interest. And that really is much too stringent an obligation to put on anybody.

As I said before, I don't think it's really in anyone's interest to even talk about the concept of an apparent conflict of interest, unless you have identified in your system an arbiter whose opinion is going to be disposed on the question of whether there is an apparent conflict of interest. Who's going to be the official observer, if you will?

Mr. Ward: Well, in your guidelines, there's no arbiter. In your guidelines, there's a perception test.

Ms Eberts: There's no arbiter in those guidelines, and there is therefore no perception test.

Mr. Ward: Was it your intention that there be a perception test?

Ms Eberts: No, it was not my intention that there be a perception test.

Mr. Ward: So, clearly, then, the problem of optics is not a violation of the guidelines.

Ms Eberts: The problem of optics is not on the guideline side at all. The problem of optics is quite

(Ms Eberts)

apart from the guidelines. It's not a violation of the guidelines.

Mr. Ward: If I can go back to your letter of July the 8th, you talk of severing the relationship, and then if I can refer you to your notes of your meeting with the Caplans -- if I could find it; I have it here -- at the bottom of the first page, your notes, "Arrangements with Wyda" -- I take it that's your understanding of "the relationship -- small monthly amount to defray expenses. Damaza will receive per cent of financing raise and percent of equity in corporation."

And then, on the next page, at the very bottom, "Arrangement with present client", you only have one note in terms of what that arrangement with the present client is, and that is "receiving equity might be sensitive".

Is that your understanding of -- is that what your concern was over the relationship? What parts of that relationship did you find offensive in terms of the guidelines?

Ms Eberts: The problems were receiving the percentage for the financing raise, that is, the contingency fee, because that would give a person a real interest, if I can use that expression, in the success of the negotiations. And, secondly, with receiving equity in the company, because an equity interest in a company is clearly the kind of interest that's within the description. So that the contingency fee and the equity interest were ones that I thought were serious problems.

Mr. Ward: Just a couple of final points that maybe relate to some smaller matters.

With regards to the documentation that was sent out, the rough forms upon which cabinet ministers and prospective cabinet ministers were to list their holdings, the material that accompanied it included, I believe, the conflict of interest. Would you not confirm that the filings that were required indicated specifically that holdings were to include the holdings of your spouse as well as your minor children?

Ms Eberts: Yes.

Mr. Ward: Okay. So therefore, if on Elinor Caplan's statement of holdings there appeared two shares in Damaza Consultants, that could in fact be her husband's two shares or her minor children's two shares.

Ms Eberts: I can't speculate on that. The information did say that they had to disclose ---

Mr. Ward: But the intent was clearly to disclose the holdings, not only of yourself, but of your minor children.

Ms Eberts: Yes.

Mr. Ward: Thank you, Mr. Chairman.

Mr. Pope: Thank you. When were the information packages in the envelopes with the ministers' names, when were they delivered to the Premier's office?

Ms Eberts: It would have been after they were sent out. Mrs. Caplan's was sent out July the 8th. I don't know exactly how long a period they were being done, but it would have been after that.

Mr. Pope: Was it in 1985?

Ms Eberts: Yes.

Mr. Pope: Did you have a hand in drafting the new guidelines?

Ms Eberts: You mean the ones that now apply?

Mr. Pope: The amendments. Yes.

Ms Eberts: Yes.

Mr. Pope: When did you do the work on the two amendments?

Ms Eberts: That would have been part of the transition exercise. It was finished up in August and September of '85.

Mr. Pope: Right. And the new guidelines were then sent around in September of '85?

Ms Eberts: I believe so.

Mr. Pope: Right. So you had in your hands the personal information of the ministers at the time that you were drafting the guidelines?

Ms Eberts: Yes, I had them come into me.

Mr. Pope: Yes. And so the guidelines that are now in effect did not pre-date information that you had in your possession concerning ministers' holdings?

Ms Eberts: The discussions I had with Mr. Wright about the problems with the old guidelines that turned up the two amendments had pre-dated my getting information from the cabinet ministers.

Mr. Pope: Yes.

Ms Eberts: In fact, when I talked to them the indication was that in these discussions that it was likely that there would be amendments on these two issues. And that pre-dated the information that came in from them.

Mr. Pope: But the guidelines were amended and finalized and sent out after all of the personal information was there?

Ms Eberts: The formal process was finished.

Mr. Pope: I see.

Ms Eberts: There was some paperwork to do to get the amendments in place, which was done afterwards. I think, though, that -- I started to say that the substance of the changes had been sketched in pretty well in their final form before I started getting information from people.

Mr. Pope: Was there at this meeting that took place a week and a half ago to discuss your privileged relationship with the Caplans and the documents you

(Mr. Pope)

indicated just previous to now that you would read the documents with the Caplans as well? Have you told the committee everyone that was there now?

Ms Eberts: Yes.

Mr. Pope: Were there any other meetings concerning your testimony before this committee?

Ms Eberts: No.

Mr. Pope: Were there any telephone conversations with you concerning your testimony before the committee?

Ms Eberts: What do you mean? I have told you I had conversations with the Caplans.

Mr. Pope: Okay. Anyone else?

Ms Eberts: I asked Mr. Wright if he was going to testify before the committee and Mr. Wright told me that he was, and he told me what he had disclosed to the committee. I did have a telephone conversation with him.

Mr. Pope: Anyone else?

Ms Eberts: There was a telephone conversation with Mr. Goudge to indicate to him that I had to seek authorization from the Caplans in order to testify, and that was, I believe, fairly early in the process.

Mr. Pope: Anyone else?

Ms Eberts: No.

Mr. Pope: No one else?

Did your solicitor have any communication with anyone else concerning your testimony?

Ms Eberts: I believe that I have told you everything that went on.

Mr. Pope: Can you explain to me why the

July 3, 1986

(Mr. Pope)

Attorney General was in on your meeting?

Ms Eberts: He was told that the Caplans had waived the privilege; his appearance was very brief; and that was it.

Mr. Pope: Now at this meeting you went through the documents; this is what you indicated to us earlier; you went through the documents. Did you discuss at the meeting a week and a half ago with the Caplans the interpretations or the letter of July the 8th that you sent to the Caplans and Item 15, the letter that you received from, copy of a letter you received addressed to Mrs. Caplan from her husband?

Ms Eberts: The letter of July the 8th was not before us at the time of that meeting, and the letter of August the 8th from Mr. Caplan was; that was one of the documents that they reviewed; and that was when Mr. Caplan told me that it had been a draft prepared, but not finally authorized to be sent.

Mr. Pope: Did you discuss in that meeting a week and a half ago your letter, the communication you had with the Caplans on July the 8th?

Ms Eberts: No.

Mr. Pope: No?

Ms Eberts: I discussed that I had sent it and I asked them if they -- I didn't discuss the contents. I asked Mrs. Caplan if she still had it and she said no. And that was the end of it. Because I didn't have a copy of it then, either.

Mr. Pope: Where did your copy come from?

Ms Eberts: I got it out of the file that I told you about.

Mr. Pope: Out of the file.

Is that the file from the Premier's office?

Ms Eberts: Yes.

Mr. Pope: Was there any discussion on any other documents at this meeting of a week and a half ago?

Ms Eberts: The documents that I was going to produce to the committee were the ones that were discussed.

Mr. Pope: Excluding 10(a), which is your July 8th letter. That was the only one that wasn't discussed.

Ms Eberts: That wasn't before us, because Mrs. Caplan didn't have her copy and I didn't have my copy.

Mr. Pope: Okay. Is it fair, if you look at document 15, which is the letter of August the 6th, '85 from Mr. Caplan to his wife, isn't it fair to assume that he interprets your July 8th letter as a withdrawal or a severance, a complete breaking of the relationship?

Mr. Eberts: I can't make any assumptions.

Mr. Pope: Well, you did in earlier questioning attempt to explain what that sentence meant when Damaza attempted to withdraw from its engagement with Wyda Systems Canada Inc. Wyda requested Damaza continue its consulting relationship with Wyda on an internal basis only. And you have discussed that, the meaning of that sentence, you have discussed with members of this committee this morning. And you attempted to put it into a context of your July the 8th letter. And from the very face of it there is a reaction by Mr. Caplan on August the 6th, or by someone doing this letter on his behalf, talking about withdrawal from its engagement and a continuation of a consulting relationship on an internal basis only.

Doesn't that mean to you that they were attempting to sever their relationship, end it entirely, and then decided to continue on on a consulting relationship only?

Ms Eberts: I told the earlier questioner to whom I think you are referring what passed through my mind when I saw the copy of the letter in my "In" basket.

July 3, 1986

(Ms Eberts)

I did not, with all due respect to the deliberations of this committee, go over this letter with a fine-tooth comb, and I don't think I should do it now.

Mr. Pope: Well, it is the interpretation of your letter of July the 8th that appears to be central in this whole issue and Mr. Caplan's interpretation seems to be the same as some of the members of this committee.

Ms Eberts: Well then, you should ask Mr. Caplan.

Mr. Pope: We will. But your attempt to analyze the meaning of "withdrawal" in the context of your meaning of the word "severance" is what mystifies us, particularly in light of the last sentence of the first paragraph: "Damaza has continued its client relationship with Wyda on this new basis." He didn't say he severed his relationship and has a new relationship on a new basis. He says he has continued. "In the context of your letter of July 8th," he says he couldn't withdraw and he is continuing the relationship on a new basis.

No, it is not. It is exactly diametrically opposed -- oh, yes, it is. I am afraid you are wrong on that one.

Mr. Wildman: You can't sever the change no matter what you do.

Mr. Pope: Well, just two other points. PEC. Did you believe there was a potential conflict of interest problem on PEC? Is that why you discussed it with Mr. Caplan?

Ms Eberts: We asked Mr. Caplan about his business involvements and he told us about that; that came out in the discussion.

Mr. Pope: Was there a conflict of interest problem with PEC?

Ms Eberts: No, not at that time, to my judgment.

Mr. Pope: Then why was Mr. Caplan told to have reference to Mr. Blenus Wright with respect to PEC? His only function is the conflict of interest guidelines.

Ms Eberts: The reference in the letter was that if the situation deteriorated it might become necessary for him to consult with Mr. Wright.

Mr. Pope: But Mr. Wright isn't a private solicitor. He is in the Attorney General's office responsible for the conflict of interest guidelines. Why the goodness would he have access to Mr. Wright unless it was a conflict of interest problem?

(inaudible interruption)

(Mr. Pope) But she said no.

Ms Eberts: On the basis of the information, which was not extensive, that I had at that time, it was not inconceivable that there would be issues of registrations and this type of thing that could involve some government agency. If some government agency got involved in the situation it would be useful for Mr. Caplan to talk to Mr. Wright.

Mr. Pope: What government agency did you think would get involved in this?

July 3, 1986

Ms Eberts: Well, I can't say exactly, but it is conceivable that some agency could be involved.

Mr. Pope: Well, did you ever think that you would get involved in this situation?

Ms Eberts: I did not go into that situation in exquisite detail. I flagged it for them, and that was it.

Mr. Pope: So he was to contact Mr. Wright even though there was not a conflict of interest problem at that point in time, to your mind?

Ms Eberts: That's right; because if you'll look at the letter, I'm talking about things that might develop in the future. It was not going to be any use to them to come back to me if something developed in the future. They should go to the proper person in the government.

Mr. Pope: So Mr. Blenus Wright should be a personal solicitor to the spouse of every cabinet minister who might have legal problems?

Ms Eberts: That's not what I was suggesting. The choice, given the existing personnel, was me or Mr. Wright. I was indicating don't come back to me about this; go to Mr. Wright. Whatever other arrangements they might have made about legal advice was up to them.

Mr. Pope: I don't blame you, but why wouldn't you advise them to go to their own solicitor?

Ms Eberts: Because, as I said before in these proceedings, if you go to your own solicitor, that person may not be as well apprised of the interpretation of the conflict of interest guidelines as somebody who has been doing it for several years.

Mr. Pope: So you thought that there might have been a conflict of interest problem?

Ms Eberts: I was saying that if there developed one in the future, they should go to Mr. Wright because he was the one with expertise.

Mr. Pope: Okay, what information did you have

(Mr. Pope)

that led you to think that there could possibly be a conflict of interest problem in the future?

Ms Eberts: The PEC had begun to have some financial problems after Mr. Caplan left.

Mr. Pope: Is that -- do financial problems with PEC relate to conflict of interest?

Ms Eberts: Well, I was not in possession of a wealth of information at that time. I was saying in a flagging sort of way, if it arises, go there. Now I don't think you can make much more of it than that.

Mr. Chairman: We have gone beyond the normal adjournment time.

Mr. Pope: I just have one last question.

Mr. Chairman: Mr. Bell may have some questions.

Mr. Bell: Let's finish with this one.

Mr. Chairman: Well, what is the wish of the committee?

Mr. Pope: I think we should finish.

Mr. Chairman: Unanimous consent? All right, fine. Continue.

Mr. Pope: Ms Eberts, you've gone through your documents, and we've talked about this before, and I'd like you to take this index of documents that was supplied by IDEIA Corporation, and this is in view of your admonition that he, that Mr. Caplan accept a low profile role as a wide application to IDEIA Corporation. And these are documents that have been put before the committee by IDEIA Corporation. They are their documents, an agency of the government. And if you care to examine, if you want to take this and have a look -- exhibits 2.

Ms Eberts: Just before we begin this, I gather that your asking me to look at certain selected documents. If you are going to ask me to draw any

July 3, 1986

(Ms Eberts)

conclusions from looking at certain selected documents, I don't think that that would be fair. I think you're going to draw certain conclusions from looking at all of the evidence and I don't think that you should ask me to draw conclusions just from looking at part of the evidence.

Mr. Pope: Well, this is all the evidence that we have from the IDEA Corporation available to us, unless we're surprised later on. This is the only evidence we have. You've got it all. I haven't got anything other than that to look at.

Ms Eberts: With all due respect, I may have it all sitting on my desk right now, but I've not had time to review it, and I don't know the context, and I haven't heard the oral evidence of IDEA Corporation.

Mr. Pope: I'll put it in the form of a question, then. This is material that Wyda gave to IDEA Corporation, and exhibit 2, which is product outline and business plans, received by the IDEA Corporation August 12th, '85. Mr. Caplan is held out to be the vice-president in charge of finance and administration. There is a resume of his professional qualifications. Document No. 4, which is a memo, an internal memo dated September the 9th, 1985, holds out Mr. Caplan to be part of the management team. He is said to be the vice-president of finance for Wyda Systems Canada Inc..

If you look at No. 5, an internal memo of August the 16th, 1985, there's a reference to political connections. The vice-president of finance and administration of Wyda is a fellow by the name of Wilfred Caplan who happens to be the husband of Elinor Caplan.

If you look at exhibit No. 9, there is a venture summary given on February the 12th, 1986 to IDEA Corporation, and one of the management team, 'Wilf Caplan C.G.A., vice-president finance', recruited June, 1985.

If you look at document No. 10, which is the overview, which is given to the IDEA Corporation. On the management team, there is Mr. Wilf Caplan, vice-president of finance.

(Mr. Pope)

If you look at document No.11, which is a document given to the IDEA Corporation in March, 1986, there we have on a page Mr. M.W. Caplan, vice-president of finance, as part of the Wyda 'leading team'.

If you look at document No.16, there is an acknowledgement of a relationship between Demaza and Wyda Systems, signed by Mr. Caplan. And there is documentation of January 31, 1986, Mr. M.W. Caplan from Wyda Systems Canada Inc.. Do you really think he followed your advice and was low profile, or do you think he was held out to be a part of the management team of a company that was applying for a government grant?

Ms Eberts: I think that's a rhetorical question actually, and I don't feel that I'm in a position to make any judgment on Mr. Caplan's behaviour on the basis of what you have read out to me.

Mr. Pope: Why not?

Ms Eberts: Because it's a rhetorical question, and I told you before, I haven't had a chance to look at all the evidence.

Mr. Pope: You gave Mr. Caplan advice to play a back-room role; not to be up front. All of the documents I have read out to you are documents that are in front of the IDEA Corporation. I don't think there is anything improper with me asking you whether or not, on the basis of those documents, you think Mr. Caplan played only a back-room role and wasn't an up-front member of the management team.

Ms Eberts: Well, with all due respect to your question, I do consider it rhetorical. I don't know what else was before IDEA, I don't know the proportion between those documents and the whole course of dealings with IDEA, and I don't think that I'm in a position to venture any speculative comment in response to your question.

Mr. Bell: Following on that, Ms Eberts, you did say that the exhibits that Mr. Pope just referred to were not known to you before. That just happened, and accordingly were not considered by you at any time in connection with any opinion that you have given or

July 3, 1986

(Mr. Bell)

formulated to anyone with respect to Mr. Caplan's compliance with the guidelines.

Ms Eberts: That's right.

Mr. Bell: You know what the committee's four issues are, and if you assumed in the hypothetical that you were part of that process, to make the decisions, would those documents, in your opinion, be relevant for the committee to consider in assessing the overall question of compliance? I think you said before that you've got to look at the whole package. Is that -- would you include those documents as part of the package to examine?

Ms Eberts: My answer still is that you have to look at the whole package, and not isolate various aspects of it.

Mr. Bell: I appreciate that, but are those documents part of the package that you would look at?

Ms Eberts: I think I have given my answer to that.

Mr. Bell: One of the other things the committee has to do is -- as part of that exercise -- is to understand the nature and extent of the guidelines as they currently exist, and can you give us a little help in terms of defining the nature and extent of interest as it's contained in the paragraph at the bottom of page 1? Would the committee be assisted at all by consulting with any of the appropriate legal or English usage dictionaries as for the meaning or the scope of the term "interest" as it's in that document?

Ms Eberts: Well, it seems that some members of the committee have already resorted to dictionary research. I am not here to tell the committee how to conduct its research. There are probably a number of sources that you could look at.

Mr. Bell: Well, would that be a useful exercise for the committee, to examine those types of legal and English usage dictionaries?

Ms Eberts: That's up to the committee.

Mr. Bell: You don't want to offer your view as to whether it would be a useful exercise for the committee?

Ms Eberts: I think that it -- that one should be very careful in applying dictionary definitions to a situation like this, because if you take the ordinary dictionary definition of the word "interest", for example, you might find a dictionary that makes a very broad definition of "interest".

For example, it might produce a situation where you could say that a seventeen-year-old son or daughter of a minister or parliamentary assistant, who accepted a very lowly temporary summer job in a company that gets funding from the government, has an interest in that company, because he or she is employed there and makes, you know, however much summer students make; and I would ask you to consider whether that really is the type of situation that this set of guidelines is intended to address.

I myself think that it would be pushing the guidelines to include such a situation, and so if you just take the flat, straight dictionary meaning of "interest", without looking at applying various other techniques of interpretation to the guidelines, I would think that you would create a really difficult, unworkable, straight-jacket for people to live within.

If you apply standards of interpretation, like what's the mischief that's being aimed at, what's sought to be accomplished here, then you would probably be able to temper the straight dictionary meaning and come to something that would make some sense.

Mr. Bell: Any there any other techniques? You have named two? What is the mischief? What do you want to accomplish?

Ms Eberts: I think it is useful for you to look at the concepts of law relating to beneficial interest for example, the principles of trusts law that relate to what is the beneficial interest. Look at that type of law. That was certainly in my mind when I was considering those guidelines.

Mr. Bell: Was the scope of your definition of interest as it's found in the guidelines restricted to that which can be defined as a beneficial interest?

Ms Eberts: My approach was to consider each case on a case-by-case basis. I didn't set up any rigid categories. I don't think that it helps to set up rigid categories and say, 'This is always going to be in and this is always be out'. So there is always the fact situation to deal with.

Mr. Bell: All right, but I heard your comments before, that one of the fundamental principles of our legal system is to create as much certainty in the minds of those that have to comply as possible. If you don't have some set standards, how do you create any degree of certainty or security? And that is the reason for my question, that is it in your scope solely a beneficial interest and if it's not, what else does it include?

Ms Eberts: It would include a beneficial interest as the law knows it.

Mr. Bell: Yes. Does it include any other type of interest? I'm not asking for an exhaustive list; I'm just asking for, in general or specific terms, whether there are other interests this committee might consider in deciding what it has to decide in this matter.

Ms Eberts: I think you have to look at beneficial interest and I think also it is useful to keep in mind the concepts of vested and contingent interests. Clearly, the contingent interest was in my mind when I talked to Mr. Caplan. You may not have an interest now but you may the kind of contingent interest that gives you, like an interest in expectation that gives you a

(Ms Eberts)

real feeling that you want a certain result or you want certain things to happen and if you had, for example, that kind of expectation interest or contingent interest, it might fall within the guidelines. Now, I can't give you a catalogue of what sorts of things those are but the contingency fee was one of them clearly that I was mindful of. You might also consider things like interest in estates that themselves have dealings, or in estate properties, that sort of thing.

But at some point you get to the vanishing point where you're really not concerned. The situation, even though it might be technically within a very large category called "interest", it's not going to give anybody's conscience any difficulty. I think you have to assess in any given case whether you've passed the vanishing point or not.

Mr. Bell: All right. Just to further help us understand this concept of interest. In the Davis guidelines, the blind trust concept did not exist, and you understand from Wright and others the scope of the definition applied to interest under those guidelines. All right? And I think you've told us about that scope. With the blind trust concept, if I have understood your evidence correctly, interest must now be defined in the context of blind trust; i.e., that which can be placed in a blind trust. Is that correct?

Ms Eberts: Well, if you look at the rule, you can perform the exercise of construction as well as I can.

Mr. Bell: Well, for those that don't understand what you and I have just been talking about, can you answer my question? Is interest now in these guidelines to be defined in connection with the blind trust concept?

Ms Eberts: There is a prohibition against certain kinds of behaviour. The first thing that I would do is consider whether the behaviour was within or without the prohibition. Then you look to see whether -- if it's within the prohibition, can it be cured by a blind trust. Whether somebody can solve the problem by putting his interest in a blind trust. Is it the sort of

July 3, 1986

(Ms Eberts)

interest that's amenable to putting in a blind trust? If it's not, then you still have the pre-existing problem -- is it inside or outside of the guidelines.

Mr. Bell: All right. Are you saying that -- well, let's deal with this. Not all interests in the widest definition can be placed in a blind trust?

Ms Eberts: That's correct. And not all interests, I am saying, are going to offend the guidelines because you have to look at -- in the first instance, the question is interpretation.

Mr. Bell: Is there a middle ground whether we have the interest that can clearly be placed in a blind trust and clearly caught by the guidelines. There are those interests that can't be placed in a blind trust which are not or should not be in the guidelines. Is there a middle? Is there a grey area? Those interests that cannot be placed in a blind trust but which are or should be in the guidelines?

Ms Eberts: You might have that sort of category.

Mr. Bell: Did you address your mind to that process at all when you were preparing the -- considering the guidelines and preparing the amendments?

Ms Eberts: If you're asking me whether I tried to define what sorts of things might be in a grey area, no, I did not. If you're asking me about the process of interpretation, it must be obvious to you by now that I did turn my mind to how that portion of the guidelines would work and I've told you my thinking on that.

Mr. Bell: Without particulars, did you address your mind to the concept of a grey area in the context of interest?

Ms Eberts: I think that in running any sort of system like this, you are going to have grey areas.

Mr. Bell: Is that an affirmative answer to my question?

Ms Eberts: Well, I'm not sure what sort of answer you want from me on that score. I've told you that I ---

Mr. Bell: I want to find out what you did at the time.

Ms Eberts: I have my own approach to interpretation. There are always going to be problems in interpretation. I would not say, "Here is a category called grey area and it is filled with the following things, specified and unspecified".

Mr. Bell: I know; you have told us that and we accept it and it's a doctrine of perfection if we expect it, but just in the process, did you address your mind to the concept of a grey area in the context of interest?

Ms Eberts: I think you've got my answer. I can't define it any more.

Mr. Bell: I have no further questions.

The Chairman: Well, thank you very much, Ms Eberts. Before we adjourn, one slight change from what we talked about earlier. We are going to have to discuss the scheduling part of our afternoon meeting because of the need to have our sittings for next week approved by the House this afternoon, so we will have to finalize that. I would ask all three caucuses to come here with some sort of understanding of what we want to do next week in respect of the sub-committee concept that we talked about as well.

Mr. Epp: Do you want to do that right now?

The Chairman: Well, have we had an opportunity? I don't know if everyone has had an opportunity so if we can get it resolved right now.

Mr. Pope: Yes, we can do it right now.

The Chairman: Well, one party is indicating they haven't had an opportunity.

Mr. Philip: Well, it might be useful to find

(Mr. Philip)

out what the position of that one party is so that when we're discussing it among ourselves, we'd at least know what the position of the Liberals are. That might affect our position.

The Chairman: Well ---

Mr. Pope: Can we meet in camera for five minutes right now and find out?

The Chairman: Does anyone have any objection to that?

Mr. Gordon: Mr. Chairman ---

The Chairman: We'll adjourn the public part of the meeting and we'll move into camera right away, as soon as the room is vacated.

--- Upon recessing at 12:53 p.m.

P-17

STANDING COMMITTEE ON PUBLIC ACCOUNTS

ALLEGED CONFLICT OF INTEREST

THURSDAY, JULY 3, 1986

Afternoon Sitting

Draft Transcript



STANDING COMMITTEE ON PUBLIC ACCOUNTS

CHAIRMAN: Runciman, R.W. (Leeds PC)

VICE-CHAIRMAN: Gillies, P.A. (Brantford PC)

Epp, H.A. (Waterloo North L)

Gordon, J.K. (Sudbury PC)

Philip, E.T. (Etobicoke NDP)

Polsinelli, C. (Yorkview L)

Pope, A.W. (Cochrane South PC)

Wildman, B. (Algoma NDP)

Substitutions:

McGuigan J.F. (Kent-Elgin L) for Mr. D.W. Smith

Ward, C.C. (Wentworth North L) for Mr. Ferraro

Clerk: Arnott, D.

Staff:

Fritz, H., Research Officer, Legislative Research Service

Bell, J., Counsel; with Shibley, Righton and McCutcheon

Peters, M., Associate Counsel; with Shibley, Righton and McCutcheon

Witnesses:

Harold Blakeley, the former President of the IDEA Corporation

Daryl Logan, a former Vice-President, Innovation Assistance

Bruno Maruzzo, a former Senior Manager, Technical Assessment

Geoff Cannon

John Phillips, Counsel

Simon Armstrong, Counsel

July 3, 1986

LEGISLATIVE ASSEMBLY OF ONTARIO
STANDING COMMITTEE ON PUBLIC ACCOUNTS

Thursday, July 3, 1986

228. The committee met at 4:40 p.m. in committee room

ALLEGED CONFLICT OF INTEREST
(continued)

The Chairman: Come to order, please. Would the gentlemen from the IDEA Corporation come forward?

Mr. Cannon, you will have to be sworn in.

Mr. Cannon sworn.

The Clerk: Mr. Cannon has been sworn.

The Chairman: Thank you.

Initially I want to apologize for the lengthy delay in getting you before the board to complete your testimony. We'll begin the questioning with our counsel, Mr. Bell.

Mr. Bell: Before we begin, on behalf of IDEA, can I comment on the press report in the Toronto Star this morning?

The Chairman: Yes, please, go ahead.

Mr. Bell: It seems that at least one reporter has mistaken some testimony given yesterday and we are concerned that the committee might have mistaken the testimony also. The report I am referring to appears on page 4 of this morning's Star, and on the third last paragraph on the far right-hand column. It is unfortunate in that it absolutely reverses the intention of the testimony given. What it does -- to set the record straight, if I might -- what Daryl Logan was saying, as the testimony was made clear yesterday, and I just simply repeat it, in his October 16 memo to Messrs. Blakeley and Cannon, is that -- why his so-called political connections, to use the term then used, was being played differently than the other guy's, and that

July 3, 1986

in fact, as stated in the memorandum and not stated in the press report, Mr. Caplan was not going to attend any of the meetings at all, at the initial stages. So I think that's important for everybody to understand, that this was treated in a different manner. The word used yesterday was 'contrasting'.

The Chairman: Thank you, Mr. Bell.

You and your clients need not be concerned that this committee or anybody else connected with this committee will not be making any substantive findings or conclusions until all the evidence is in, and it is regrettable you have that concern. Thank you for your comments on the record.

So the record will have -- the record of IDEA testimony will have some continuity, can we start now where we left off, being the takedown certificate ---

Mr. Phillips: It's still the bringdown certificate.

Mr. Bell: Bringdown.

Mr. Phillips: You have maintained the continuity.

Mr. Bell: That's right.

---Laughter

And that's a contrast.

---Laughter

I've asked the Clerk overnight to photocopy the two pages of the certificate, and if you would distribute them to the members, you could have them as part of your exhibit brief, members. Mr. Phillips -- or gentlemen, is there anything else that you wish to say about this certificate in connection with the certificate dated -- well, the certificate and letter at tab 16 of your material, which is the April 11th acknowledgement with the January 31st, '86 letter attached?

Mr. Phillips: Thank you, Mr. Bell. If I might, on behalf of IDEA, I think where I left off on the certi-

July 3, 1986

ificate was responding to a question as to speculating what would happen if, at the time between signing of the subscription agreement on the 12th of April and the delivery of the certificate, or scheduled delivery of the certificate on the 18th, IDEA had been notified or otherwise discovered the change in the contract between Wyda and Damaza.

At that time I believe I said that I would probably seek instructions, and the choices available would be an amendment of the certificate and consequently a waiver, or simply just a waiver and we wouldn't bother with the document; that of course wouldn't be put in practice; and lastly, it would be -- provide an opportunity for IDEA to walk from the deal, two conditions precedent to closing not having been satisfied.

I have since chatted with Mr. Logan, who of course reminds me of his testimony that some time in May or June he in effect approved or acquiesced to the \$8,000. I think that it is fair to say to supplement the speculation that, had he known of the increase and had he known that it was for a two- to three-month period, and had he known that it was in a sense the termination arrangement, he would have simply instructed us to waive that element of the condition precedent, and likely we would have amended the certificate to add an exception, and we would have proceeded to closing in the ordinary course.

Mr. Bell: Mr. Logan, do you adopt your counsel's statement as your answer as given to this committee under oath?

Mr. Logan: Yes.

Mr. Phillips: As to the acknowledgement which is the second part of your question, that is the -- Mr. Isho's -- does anyone understand what I'm talking about?

Mr. Bell: It's tab 16, members, in the IDEA documentation.

Mr. Phillips: I think my answer last time, on being asked why it was obtained and who ventured it, I said that probably we were moving pretty fast and, as a matter of certainty in an uncertain world, we got the acknowledgement just to ensure that this and a number of

July 3, 1986

other loose ends were settled clearly. I have since taken the opportunity of discussing the matter with the two associates of mine involved and they have confirmed that they had in two separate stages read the January 31 letter, which was provided to them as material contracts, and, frankly -- I sort of have trouble saying this -- they didn't read the whole letter. They forgot to read the last paragraph on the first page. And I said, "Whoops, there's a payment." The basic thrust of this particular transaction is that payments out that haven't been approved don't get made, so they said, "No payment," and requested an acknowledgement that there would be no payment; that was immediately forthcoming without any resistance whatsoever. They barely remember the transaction because it was really a non-event at the time.

July 3, 1986

Mr. Bell: And the name of your two associates are, for the record?

Mr. Phillips: David McCarthy and Diane Goodman.

Mr. Bell: And these are lawyers in the office of Blake, Cassels?

Mr. Phillips: Yes they are.

Mr. Bell: And they assisted you in the transaction?

Mr. Phillips: Yes they did.

Mr. Bell: All right. Mr. Blakeley, do you recall a meeting in this room last Wednesday evening with myself, the Clerk and Mr. Pope, Mr. Epp and Mr. Philip?

Mr. Blakeley: Yes I do.

Mr. Bell: Do you recall during that discussion when you were giving certain information to those present and when you were being asked certain questions that you used the word "finder's fee"?

Mr. Blakeley: Yes, I made reference to that word.

Mr. Bell: Would you explain to the committee what you meant by the use of that term at that time?

Mr. Blakeley: I am quite familiar with the use of the phrase or term "finder's fee", in the normal course of business it is a percentage of monies raised. Having been in the business of . . . myself, I am quite familiar with it, usually on a formula. Usually the layman formula five, four, three, two, one; or it can be anywhere between two to five per cent in the normal course of business. That is what I meant by a finder's fee.

Mr. Bell: Well, you can confirm that that was a term that you volunteered to those present at that meeting?

Mr. Blakeley: Yes.

July 3, 1986

Mr. Bell: And that it was a term that you used after -- or in the context of discussions about the remuneration paid to Mr. Caplan in the amount of \$8,000?

Mr. Blakeley: It was used in that connection.

Mr. Bell: When it was used in the context of a discussion in respect of that amount?

Mr. Blakeley: It was used in the context of the discussion.

Mr. Bell: And it was used in the context of discussion about whether IDEA's approval had been sought and/or given in respect of that payment?

Mr. Blakeley: Yes.

Mr. Bell: Well, would you explain to the committee why you used the term "finder's fee" in that context?

Mr. Blakeley: I was trying to differentiate between a finder's fee -- to emphasize the point that I did not consider Mr. Caplan to be a finder in this case. However, it was a fee commensurate with the normal finder's fee. So that I believe I was asked the question did I consider the \$8,000 a finder's fee. I believe I said or meant to say or implied that no, I did not consider it to be a finder's fee.

Mr. Bell: Were you asked the question whether IDEA -- had IDEA's approval for the \$8,000 amount been sought and obtained prior to closing?

Mr. Blakeley: Was I asked that question?

Mr. Bell: Yes.

Mr. Blakeley: I don't recall being asked that question.

Mr. Bell: I beg your pardon?

Mr. Blakeley: I don't recall being asked that question specifically.

July 3, 1986

Mr. Bell: Do you recall an answer to that question by you in the negative?

Do you recall indicating to that meeting that IDEA's consent had not been sought or given for the payment of \$8,000 before the closing?

Mr. Blakeley: That is right. I recall this.

Mr. Bell: And do you recall being asked if the consent had been sought during that time if it would have been given?

Mr. Blakeley: Yes.

Mr. Bell: And do you recall answering no, it would not?

Mr. Blakeley: If it were construed as a finder's fee it would not.

Mr. Bell: No.

Mr. Blakeley: I may have said and I think I said it incorrectly.

Mr. Bell: All right. Well, I want to give you an opportunity, sir, if you now believe you indicated something incorrectly, to state your position clearly.

Mr. Blakeley: I would like to preface any comments I make or have made with the fact that I came up to discuss the Venture Summary and the only people that I identified in the casual conversation we had over here was what I considered to be a casual conversation. I didn't realize who Mr. Runciman was for example. I think it was afterwards that you introduced yourself.

Mr. Bell: Well, that is not surprising. He wasn't at the meeting.

Mr. Blakeley: If I were saying what I said then under oath, because it was casual conversation, because I had never been before a committee like this or hearing like this, I felt I was at liberty to be a little philosophical about my attitude toward finder's fees and that of the corporation.

July 3, 1986

Mr. Bell: You are not intending to say you said something different then than you would say now under oath, are you?

Mr. Blakeley: No.

Mr. Bell: Was it then and prior to that meeting your opinion that the \$8,000 was a finder's fee?

Mr. Blakeley: No.

Mr. Bell: Mr. Blakeley, just one other item. It has to do with your dealings with the former Assistant Deputy Minister of Industry, Trade and Technology, Mr. Barnes. We have learned that you had an initial discussion with him respecting Wyda. You had a follow-up discussion with him after I believe the initial assessment and you are nodding in the affirmative.

Did you have any other communications or dealings of any nature with Mr. Barnes after that second one as for Wyda?

Mr. Blakeley: I don't believe I did, because it was not something, there was nothing happening as long as he was involved with the ministry, because he left, effectively left the ministry I believe in October or November and he did not attend any further directors' meetings. So he was in effect out of the picture. I don't believe I had any more discussions other than that one I referred you to yesterday.

Mr. Bell: Did you receive any communications from him in written form or did you provide any written communications to him in written form subsequent to that second dealing?

Mr. Blakeley: About Wyda?

Mr. Bell: About Wyda.

Mr. Blakeley: Not that I recall.

Mr. Bell: Mr. Blakeley, I understand that sometime prior to today, but after this matter was first raised in the House, and I believe that is June the 10th, you had some discussions with Mr. Kruger respecting Wyda and IDEA's investment?

July 3, 1986

Mr. Blakeley: Yes.

Mr. Bell: Can you tell me about those?

Mr. Blakeley: He phoned me to ask me if there was indeed in our documents a letter dated January 31st which is part of our exhibit here. I said I wasn't aware of it. I then went to work and found it in the closing documents the document he wanted. I said "Yes, we have it." "Would you copy it and send it up to me by taxi immediately, please."

Mr. Bell: Was that the February the 12th ---

Mr. Phillips: The 16th.

Mr. Blakeley: The 16th, the document -- Tab 16, two documents.

July 3, 1986

Mr. Bell: Did you have any other discussions with Mr. Kruger?

Mr. Blakeley: Yes, I was asked to appear in the office of the Deputy Minister.

Mr. Bell: Which Deputy Minister?

Mr. Blakeley: Mr. Lavelle?

Mr. Bell: Yes.

Mr. Blakeley: And was asked by Mr. Lavelle to come there and to meet with him and Mr. Kruger to discuss in a general sense, really to discuss the press report that had appeared the day before, and to bring certain files with me, which I did.

Mr. Bell: What were you asked?

Mr. Blakeley: At that meeting?

Mr. Bell: Yes.

Mr. Blakeley: Just to present the files to Mr. Wright, who was present, and give him a chance to see what was in the file -- and it was not a complete file, it was simply a file of correspondence, mostly containing what is in our exhibit -- and there was a discussion amongst the group -- and there was a group of maybe six people there.

Mr. Bell: Was this a file that IDEA ordinarily kept as part of its business records?

Mr. Blakeley: Yes.

Mr. Bell: What was the reference on the outside of the file? What was it called?

Mr. Blakeley: It was not a -- it was a file that was in my secretary's cabinet, just an open file, with a common buff cover. I don't think there was any identification on the file.

Mr. Bell: You said that some or most of the material in that file we have in the IDEA brief. What else was in the file?

July 3, 1986

Mr. Blakeley: That whole file was presented---

Mr. Bell: My recoll -- well, let's make it, have I reviewed that file?

Mr. Blakeley: Yes, sir; to my knowledge you have.

Mr. Bell: All right. You met with Mr. Kruger and -- I'm sorry, you met with Mr. Lavelle?

Mr. Blakeley: Mr. Lavelle.

Mr. Bell: Was anybody else at that meeting?

Mr. Blakeley: Yes, sir.

Mr. Bell: Who was that?

Mr. Blakeley: Mr. Kruger, Mr. MacKinnon, Mr. Wright. Some others whom I didn't know and can't identify right now. There were quite a few -- it was confused; I mean, people were coming in and out of the office and I don't know who all was there besides those people.

Mr. Bell: Well, specifically, sir, what were you asked and what did you answer?

Mr. Blakeley: Questions about what was in the file.

Mr. Bell: And you gave the answers?

Mr. Blakeley: I gave the answers.

Mr. Bell: Were you asked anything specifically about Mr. Caplan?

Mr. Blakeley: I don't remember being asked anything about, any pointed question about Mr. Caplan, but to indicate in the file whatever reference there was to Mr. Caplan. I recall showing them the document, the letter of -- the memo, the two-paragraph letter written by Mr. Logan. In fact, Mr. Wright was on my left and we went -- thumbbed through the file together, and he made notes, but I wasn't asked that many questions.

Mr. Bell: Were you asked specifically whether

(Mr. Bell)

the approval by IDEA of the Wyda investment was as a result of Mr. Caplan's involvement with Wyda?

Mr. Blakeley: I was not asked that question.

Mr. Bell: Did you volunteer ---

Mr. Blakeley: No, sir.

Mr. Bell: --- anything in that regard?

Mr. Blakeley: Not that I recall.

Mr. Bell: Did you have any subsequent meetings with anybody else, sir, before today, other than meetings between your counsel and ---

Mr. Blakeley: Meetings with people in government?

Mr. Bell: Yes.

Mr. Blakeley: In the Ministry?

Mr. Bell: Anybody.

Mr. Blakeley: No.

Mr. Bell: All right.

Mr. Cannon, can we develop some chronology with you, sir? We have seen reference to you in documents and we've heard reference to you in testimony of some of your colleagues. Can you tell us, sir, personally, when you were first introduced to the name Wyda in the context of -- in any context?

Mr. Canon: It would be a time when the initial Wyda proposal came into IDEA Corporation, because it was initially routed to me.

Mr. Bell: And when was that, to your knowledge? You might want to have reference to the IDEA documents to assist you, and specifically tab number 2 is a part of the original outline and business plan received on August the 12th.

Mr. Cannon: That would be in August, sir.

Mr. Bell: All right. And were the first one that received this document?

Mr. Cannon: Yes, I would be.

Mr. Bell: All right. And did you review it at that time?

Mr. Cannon: No, I didn't. What I did was to simply send out an acknowledgement letter. Then I would have turned it over to one of my staff to initially review it.

Mr. Bell: All right. And that acknowledgement letter is tab number 3 of the material. Is that correct?

Mr. Cannon: Yes, sir.

Mr. Bell: When did you first review this, tab 2?

Mr. Cannon: Well, I guess that would be sometime in the early new year, in '86, when it looked as though we were moving towards a go decision, and Daryl asked me if I'd give him a hand in looking at the file and maybe giving him some suggestions as to how to structure the deal.

Mr. Bell: All right.

Mr. Phillips: If I might interrupt, the question was, "When did you look at tab 2 first?" The date of tab 2 is July 4.

Mr. Bell: Received August 12th.

Mr. Phillips: Received August 12th. Did you ever look at that document? There is a subsequent business plan dated January.

Mr. Cannon: No, I wouldn't have looked at their business plan, but what I would have looked at is the fellow that did the initial analysis and review for me on Wyda. I would have looked at that, whenever that was dated.

July 3, 1986

Mr. Bell: What was that? Is that 3?

Mr. Cannon: Yes, that's tab 3.

Mr. Bell: Look at tab 4.

Mr. Cannon: That's it, yes, sir.

Mr. Bell: Does this represent -- on or about this date -- your first introduction to Wyda and the information that is contained in this memorandum?

Mr. Cannon: That's correct, sir. Yes.

Mr. Bell: I understand your evidence before, though, that you were aware of Wyda when the business plan was first received in August.

Mr. Cannon: M'hm.

Mr. Bell: Would you turn to the second page of that document? I take it that you read this memorandum on or about the time you received it?

Mr. Cannon: That's correct.

Mr. Bell: And does this represent, on page 2, the first time that you were introduced to Wilfred Caplan in respect to his association with Wyda?

Mr. Cannon: It's the first time I heard the Caplan name, that's correct.

Mr. Bell: Well, it it also the first time you read the Caplan name?

Mr. Cannon: Well, I'm a little bit embarrassed to say that when I read it it didn't mean anything to me.

Mr. Bell: I wouldn't be embarrassed about that.

What you mean is, when you read 'Wilfred Caplan', you took it at its face, without relating it to anything or anybody else?

Mr. Cannon: That's correct.

Mr. Bell: Specifically, you did not relate this Mr. Caplan on this page to Elinor Caplan? Is that what

(Mr. Bell)

you're saying?

Mr. Cannon: That's correct.

Mr. Bell: When did you first do that?

Mr. Cannon: I think the first time I understood even who Elinor Caplan was -- again, I'm a little embarrassed ---

Mr. Bell: I wouldn't be ---

Mr. Cannon: --- is the time that Daryl sent around a memo to myself and Harold outlining the difference in approach or style between the way IDEA had been approached ---

Mr. Bell: Turn to tab 5, then, sir.

Mr. Cannon: Yes.

Mr. Bell: That's Mr. Logan's October 16th, '85?

Mr. Cannon: Yes, sir.

Mr. Bell: Well, what was your reaction when you read this memorandum?

Mr. Cannon: Let me just have a quick run-through and---

Yes, my reaction was 'that's refreshing; it's nice to see.'

Mr. Bell: All right. When did you first meet with any Wyda representatives?

Mr. Cannon: That I'm not sure of. It would be sometime I guess in the new year, after Daryl had asked me to have a look at the file and give him a hand in structuring it. Sometime thereafter -- I'm fuzzy on the date, but sometime thereafter I would have met with Abbey and Daryl on the deal.

July 3, 1986

Mr. Bell: All right. Did you at any time up to the approval by the board on March the 6th meet with or have discussions with Mr. Caplan?

Mr. Cannon: Yeah, he was at a meeting where Abbey and Caplan came in and met with Daryl and I.

Mr. Bell: Can you recall as best you can the date?

Mr. Cannon: I am sorry, I can't.

Mr. Bell: Can you recall as best you can the subject of that meeting?

Mr. Cannon: Yes. It was certainly on the structuring; well, on structuring the deal.

Mr. Bell: What do you mean by that?

Mr. Cannon: Sorry. The capitalized structure. Our interest, our -- oh, I am sorry, financial structure, yes. Financial structure, the capitalization structure the company was going to have, how we were going to make our investment.

Mr. Bell: Had the deal been settled? Had the terms of the deal as approved by the board and as recommended by Mr. Logan's Venture Summary of February the 12th been settled before that meeting occurred?

Mr. Cannon: That I don't know.

Mr. Armstrong: Excuse me. You refresh your memory about the dates in that connection.

Mr. Bell: Don't be afraid to tell me I am missing something. It wouldn't be the first time.

Mr. Cannon: I am sorry. The board meeting was in March.

Mr. Bell: I know. Well, let's not red herring that.

In terms of staff the deal was done by the February 12th memorandum?

July 3, 1986

Mr. Armstrong: That is correct.

I am sorry, I thought you meant had the board approved it.

Mr. Bell: No, no, no, no, no. No, no. As far as staff was concerned the deal was done by February the 12th. Now, may we take it that that meeting that you have just described occurred prior to February the 12th?

Mr. Cannon: I would think so.

Mr. Bell: All right. Before that meeting occurred had all of the terms of the deal as reflected by the February 12th memo been settled?

Mr. Cannon: Yes they had.

Mr. Bell: Well then, what was the purpose of the deal? I am sorry, what was the purpose of the meeting?

Mr. Cannon: The meeting? Well, when I say they were largely set, that is exactly right; and I think that one of the reasons why Daryl wanted me in the meeting, very simply put Abbey on the other side is a pretty tough, strong negotiator and I have a little shorter fuse than Daryl. So Daryl thought that it might even up the match a little bit. Because while most of the terms had been settled there were a couple of outstanding issues on price and so forth.

Mr. Bell: Well, all right. Was the purpose of the meeting to deal with outstanding issues?

Mr. Cannon: Yes, I think so.

Mr. Bell: Or otherwise I don't think we required your negotiating skills or your short fuse, did we?

Mr. Cannon: That is correct.

Mr. Bell: As best you can recall, what were the outstanding issues that had to be dealt with at that meeting?

Mr. Cannon: I think the only outstanding issues

(Mr. Cannon)

that I was involved with in the meetings, because I didn't sit in on all of them now that I recall, was the pricing issue on the equity component.

Mr. Bell: You are going to have to -- now, Mr. Armstrong, is any of the detail of that of the confidential, sensitive nature?

Mr. Phillips: I think it might be, yes. Can we just confer for a moment? Bear with me for a moment if you would. We might have some confusion. Can you turn us off for a sec?

Mr. Bell: Do you want to go back on the record?

Mr. Phillips: Yes, go back on the record.

Mr. Cannon: I am sorry, I apologize.

Mr. Bell: Please don't apologize.

Mr. Phillips: I think that where we have gone askew here is where you left off, the Venture Summary terms have been settled, yet we were still negotiating some outstanding points. Yet I think that Mr. Cannon is now going to say that what he was focusing on is the fundamental terms in the Venture Summary which weren't finalized just then.

Mr. Bell: Before the meeting occurred.

Mr. Phillips: Before the meeting occurred; that is correct.

And pricing, to explain it in a way that I can understand it, is that these investments -- or you pay money and you get common shares back. And the number of common shares is not important because all the other guy has to do is issue himself more. It is the percentage at the end of the day. So it is dollars against per cent. And IDEA normally invests by way of common stock. Certainly in this case it was a pure common stock deal. So it is numbers, dollars, Canadian dollars against percentage as pricing.

Mr. Bell: All right. Thank you very much for

(Mr. Bell)

that. Now, as for this meeting, what were the terms that you and Mr. Logan intended to settle at that meeting, as best you can recall?

Mr. Cannon: I am sorry, could you try that one again?

Mr. Bell: The meeting was for the purpose of settling some of the terms of the deal.

Mr. Cannon: Correct.

Mr. Bell: Now, what were the terms the meeting was intended to settle?

Mr. Cannon: The one I am familiar with is what I call the pricing issue.

Mr. Bell: And is that the amount you are going to pay for what percentage you are going to receive?

Mr. Cannon: That is correct.

Mr. Bell: All right. Is that a fundamental term for the deal?

Mr. Cannon: You bet.

Mr. Bell: Well, that is the deal, isn't it?

Mr. Cannon: Yes, sir.

Mr. Bell: The rest is, with the greatest of respect to Mr. Phillips and his colleagues, window dressing; isn't that right?

Mr. Phillips?: If the pricing catches money

Mr. Bell: You pay your money you get your ticket.

Mr. Cannon: You bet.

Mr. Bell: Was that term settled at that meeting?

Mr. Cannon: Yeah, I believe it was.

Mr. Bell: Mr. Logan, can you confirm that?

Mr. Logan: This is a point I was wondering whether I should clarify earlier. The actual final deal of 1.7 million for 18 per cent and 1.3 million for 9 per cent, which was eventually what went in front of the board and was approved is, in a small detail, different than what you will find in the Venture Summary. So for purely technical purposes we never really did settle at that meeting ---

Mr. Bell: Well, you know what you put to the board was 1.6 and 1.4.

Mr. Logan: Well, that is what went out in the Venture Summary.

Mr. Bell: All right. Were those two terms settled at that meeting?

Mr. Logan: I don't know if we came to an absolute final settlement at that meeting or not, or whether we would have got close to it and then a phone conversation later would have got us a little bit closer.

Mr. Bell: Fair enough.

Mr. Logan: We were getting very close at that time.

Mr. Bell: Fair enough. But that term was negotiated between the persons in attendance?

Mr. Logan: Yes.

Mr. Bell: Were any other terms, and we are talking about all of the meeting now, Mr. Logan, were there any other terms of this deal negotiated during that meeting?

Mr. Logan: There would have been some terms, such as our wanting to have Wyda to undertake a marketing strategy study.

Mr. Bell: Yes. Anything else?

July 3, 1986

Mr. Logan: There was the term of giving Wyda an option to re-purchase some of our shares at a fixed rate of return down the road should they be able to afford it.

Mr. Bell: Yes. And that in the context of that closing documents, that is called the retraction option agreement?

Mr. Logan: That is correct.

Mr. Bell: And were the essential terms of that agreement settled at this meeting?

Mr. Logan: Yes.

Mr. Bell: All right. Anything else?

Well, can I give you a checklist and you can tell me yes or no?

Mr. Logan: Sure.

Mr. Bell: Were the terms of the non-competition agreements between Wyda and certain individuals discussed and settled?

Mr. Logan: I don't believe so.

Mr. Bell: Were the terms of any confidentiality agreements between Wyda and others settled?

Mr. Logan: No. The terms would not have been. We might have been asked, probably not at that meeting but prior, whether there was confidentiality agreements and they probably would have said yes. But no, the terms were not negotiated at that meeting.

Mr. Bell: Can you recall any other terms that were discussed and/or settled at that meeting?

Mr. Logan: I do not recall any others. I would not want to say there were not others, but I cannot recall ---

Mr. Bell: All right. Mr. Cannon, to the extent that you were involved at the meeting, can you tell me what role Mr. Caplan played on Wyda's behalf?

Mr. Cannon: I don't think he said a word while I was there.

Mr. Bell: Okay. Mr. Logan?

Mr. Logan: My recollection is, you know, how much he said, if he said anything, is not going to be absolute here. The basic negotiations at all times occurred between myself and Mr. Dobzinski. Mr. Caplan -- and at times in these negotiations, and I can't honestly say that it really did happen in this meeting, but in some of our meetings and even some of our phone conversations we would take a break to confer with a colleague about one side's position or another side's position. I would expect in the course of that meeting Mr. Dobzinski and Mr. Caplan probably had some consultations between themselves, much like I probably did the same thing with Mr. Cannon.

But his main role throughout this was to act as an ---

Mr. Bell: Throughout what?

Mr. Logan: Throughout these negotiations, when we were trying to arrive at what we would take, that we would be satisfied with the deal to take in front of our board.

Mr. Bell: Right now I'm just talking about this particular meeting that Mr. Cannon attended.

Mr. Logan: Mr. Caplan would be acting as an advisor to Mr. Dobzinski in Mr. Dobzinski's negotiations with us.

Mr. Bell: Was he represented at that meeting to you as Mr. Dobzinski's advisor?

Mr. Logan: No, we understood him to be the Vice-President of Finance and the Vice-President of Finance you would expect to be advising his President.

Mr. Bell: And your evidence is you can't recall anything that was said at all or specifically?

Mr. Logan: I can't recall anything specifically.

Mr. Bell: Did he say anything?

Mr. Logan: I am sure he didn't.

Mr. Bell: Like 'hello' or 'goodbye'?

Now, Mr. Cannon, have you ever attended any other meeting where Mr. Caplan was present? This is pre March 6th.

Mr. Cannon: No, sir.

Mr. Bell: I take it you did attend meetings when Mr. Caplan was present post March 6th?

Mr. Cannon: Yes.

Mr. Bell: And what were those meetings in regard to?

Mr. Cannon: That again was a pricing issue; and I forget the date, but I believe the deal would have -- by the time I met with him again -- I'm fuzzy on the date, but let me tell you about the meeting, it was very simple. At the time that there was still a lot of debt remaining on the balance sheet and we were trying to understand what the best way --

Mr. Philip: Just begin again.

Mr. Cannon: We met to discuss again the pricing issue. More specifically we were jamming the balance sheet of Wyda and there was a good chunk of debt on the balance sheet at that point in time, and what we were trying to do was restructure the balance sheet such that Wyda would have the best possible chance of accessing equity funding at a later date.

So again I was brought into a breakfast meeting with Daryl, with Abbey, with Wilf, and I believe Abbey's father-in-law, to discuss how that money would come in and who would bring it in and what the cost of it would be.

Mr. Bell: Did you have any other meetings with Mr. Caplan?

Mr. Cannon: No, sir.

Mr. Logan: There may have been two breakfast meetings. Was there one or two breakfast meetings?

Mr. Cannon: Just one.

Mr. Bell: Mr. Logan, did you have any other meetings than we have heard about with Mr. Caplan at any time?

Mr. Logan: I believe there would have been, in all likelihood, at least one or two other meetings where we would have negotiated specific terms that he probably would have been involved in. There then also would have been, once we had all the initial legal documentation together, we had a very large meeting in IDEA's offices where we had legal counsel from both parties involved to do an initial run-through of all of our legal documentation. That would be the subscription agreement, the shareholders' agreement, the option agreement, the retraction option agreement, employment agreements, confidentiality agreement, et cetera.

Mr. Bell: And the purpose of that meeting was to settle finally the terms of all of the documents for closing?

Mr. Logan: You take a good crack at it but you can never get it all done.

Mr. Bell: No, no, I'm not talking of perfection; it's simple I hear.

Mr. Logan: Yes, the idea was to have ---

Mr. Bell: Lawyers aren't even perfect.

Mr. Logan: The idea was to try to get everybody together, resolve the issues.

Mr. Bell: Those other meetings that you've just described other than that one at Blake's, were they all pre-closing?

Mr. Logan: Yes.

Mr. Bell: Were the other ones pre-March 6th?

Mr. Logan: These would all be leading up to March 6th. At the time I had to send somebody out to the board we had a \$1.6/1.4 deal. I had to get it out.

(Mr. Logan)

Subsequently to that I gave them essentially two choices. They came back with a \$1.7/1.3. I then took that to the board, the meeting we are discussing now and that was the board meeting on March 6th. The meetings we are now discussing are in between the time of that board meeting and the time we signed the initial subscription agreement on April 12th.

Mr. Bell: Those other meetings that you have just described where you said there were negotiations under way as for some of the terms, what role did Mr. Caplan play in those meetings?

Mr. Logan: In meetings where we were negotiating positions such as what legal rights the IDEA Corporation would have or its member on the Board of Directors would have or what decisions we had. That is always a contentious issue with any investee and a number of the meetings would pertain to some of those provisions for example and Mr. Caplan would have been contributing his perspective on what some of those veto rights would be, in many cases supporting our perspective because Mr. Dobzinski didn't happen to agree with very many of them.

Mr. Bell: Okay. Mr. Logan, is it -- and this is with the utmost respect for your colleagues -- is it fair to say that within IDEA's staff, the decision to want to invest in IDEA ---

Mr. Logan: Want to invest in Wyda?

Mr. Bell: I'm sorry. Want to invest in Wyda, whenever it was made, was initiated by you?

Mr. Logan: Yes, I had to be the person to be convinced.

July 3, 1986

5:25

Mr. Bell: All right, and that was done at some time?

Mr. Logan: Yes.

Mr. Bell: Can you put it in some approximate timeframe in relation to your February 12th memorandum?

Mr. Logan: That would have been somewhere in the middle of January of 1986.

Mr. Bell: All right. Prior to that occasion, had you or anybody else at IDEA had any direct dealings with Mr. Caplan?

Mr. Logan: No. Sorry, let me -- Mr. Parikh may have called Mr. Caplan regarding some of the financial details. In his memo of January 6th, he mentions that he was going to call for some financial information the following week. I would expect that my decision that, 'yes, this looks like a very good investment' was made probably after Mr. Parikh obtained that financial information; quite likely, because I believe up through the date Mr. Orr's marketing recommendation, but I believe it was somewhere in the middle of January, too, and the decision that we definitely wanted to invest in Wyda would have been taken basically after getting Mr. Orr's very positive recommendation.

Mr. Bell: Mr. Armstrong and/or Mr. Phillips, other than the meeting that Mr. Logan has described -- and I think it occurred at your office with the parties, including Mr. Caplan, to put the finals on the closing documents -- did Mr. Caplan ever attend any other meeting at your office in connection with this matter?

Mr. Phillips: I think that there might have been more than one of those meetings. He did attend at our offices on the 12th of April ---

Mr. Bell: Yes.

Mr. Phillips: --- at which point I was told this morning he delivered the acknowledgement under tab 16.

Mr. Bell: Yes.

Mr. Phillips: Apart from that, without consulting with my associates, I think not.

Mr. Bell: Other than yourself and the two associates whom you've identified, was there anybody else at your office involved with this deal

Mr. Phillips: No. But there were members of our firm that were involved with Wyda.

Mr. Bell: What does that mean?

Mr. Phillips: It means that, having been on the other side of one of the SRTC deals that they did, it turned out that, for one reason or another, they retained us to work on another deal.

Mr. Bell: All right.

Mr. Phillips: I checked the computer records on that in our place and that was -- we opened the file on January the 13th. It did not involve myself or anyone working on the IDEA transaction, and the transaction went I think virtually nowhere.

Mr. Bell: All right. Well, I've got to ask you this. I hope you all understand why--so that the record is absolutely clear. Did anybody on behalf of your firm have any dealings with anyone at IDEA in any respect in connection with IDEA's decision to go with the Wyda investment?

Mr. Phillips: I hope that our firm influences IDEA in giving legal advice as to the go-ahead on the transaction.

Mr. Bell: But other than in that connection, as acting for the interest of IDEA, was there -- were there any dealings in any other way?

Mr. Phillips: Absolutely not.

Mr. Bell: Thank you.

Mr. Logan -- or anybody else -- during this stage where you're leading up to your Venture Summary, were any of the IDEA board members involved in any way

(Mr. Bell)

with you people in respect of this Wyda matter?

Mr. Logan: Not at all.

Mr. Bell: Was anybody from the Ministry of Industry, Trade and Technology involved in any way with you people in this matter?

Mr. Logan: No.

Mr. Bell: All right then.

Mr. Chairman, I don't have any further questions.

The Chairman: Mr. Wildman?

Mr. Wildman: Well, I have a couple of short questions.

With regard to tab 5, Mr. Logan, can you indicate when you became aware of the relationship between Mr. Caplan and Elinor Caplan?

Mr. Logan: It would have either been the morning of our October 9th meeting or the day before our October 9th meeting.

Mr. Wildman: And how were you made aware?

Mr. Logan: Mr. Parikh made me aware.

Mr. Wildman: Do you know how he became aware? Who informed him?

Mr. Logan: I don't know if anybody informed him or whether he knew of it ---

Mr. Wildman: What I'm really asking is if Wyda informed your firm of the relationship?

Mr. Logan: As far as I know, they did not. But I cannot tell you how Mr. Parikh learned of it.

Mr. Wildman: What prompted you to write this memo?

July 3, 1986

Mr. Logan: I had been aware of the group that was mentioned here as being very aggressive in terms of making us or our IDEA Corporation aware of people they knew who they thought might influence us, and I thought it was very refreshing that a company, our proponent, who you might say had quite good political connections, was taking a very explicit stand that they not only did not intend on doing that, but they wanted to make it very clear that there could not be even a perception of its going on.

Mr. Wildman: Can you back up for me a little? If Wyda did not make Mr. Parikh or your firm, the IDEA Corp, aware of the relationship, that he himself found out, then how did you find out what the position of Wyda was with regard to possible influence?

Mr. Logan: Mr. Dobzinski made it very clear in the meeting of October 9th when I -- Mr. Parikh lined up the meeting and came and saw me as to whether I could be available for this meeting, he pointed out to me that there would be two people that he understood to be coming to attend this meeting on October 9th; they would be Mr. Dobzinski and Mr. Caplan, and at that point he told me that Mr. Caplan was the spouse of Elinor Caplan, who was a member of the Cabinet. I went to that meeting expecting that there would be two representatives from Wyda attending the meeting. Mr. Dobzinski showed up alone and made it very clear that Mr. Caplan was not coming to that meeting -- very purposefully was not coming to that meeting and would not be involved until we had made our decision as to whether we wished to invest in Wyda.

Mr. Wildman: Now, obviously, from your memo, you were pleased with this -- or at least you were impressed?

Mr. Logan: Yes.

Mr. Wildman: Prior to Mr. Dobzinski making this clear to you, did you expect to have problems as a member of the staff of IDEA because of the relationship that you had become aware of?

Mr. Logan: I did not know what to expect. Sometimes people try to use their apparent friends or

(Mr. Logan)

connections or whatever to influence you, sometimes they don't. I did not know what to expect. I recall saying to Mr. Parikh that 'I don't care who Mr. Caplan is. If they've got a good business, we'll invest in it; if they don't, we're not going to do it.'

Mr. Wildman: Were you personally involved with the other situation that you contrasted to Wyda in this manner?

Mr. Logan: No, I was not.

Mr. Wildman: You were just aware of it through scuttlebutt in the office, or did you have any personal knowledge of the problems, if any, that might have occurred with regard to the other company?

Mr. Logan: I was aware that -- because of discussions I had had regarding it with Mr. Cannon.

Mr. Wildman: With Mr. Cannon?

Mr. Logan: Yes.

Mr. Wildman: Okay. I don't know whether this is in order, but I'm going to ask, Mr. Chairman; you can rule on it.

Mr. Cannon, can you explain when -- what timeframe we're talking about with regard to the firm that Mr. Logan contrasted to Wyda in tab 5? When this was or whatever occurred?

Mr. Cannon: My involvement with the other firm would have begun sometime during last summer, July or August. As I understand it, this other firm had already previously approached IDEA Corporation to have IDEA make an investment in it.

Mr. Wildman: We understand from earlier testimony that IDEA did not invest in the proposal or proposed enterprise of this other company.

Mr. Cannon: At the time that I got involved, non-investment decision had been made.

Mr. Wildman: And subsequently was there any one made?

Mr. Cannon: Yes, sir.

Mr. Philip: It was an investment decision, a decision not to invest.

Mr. Cannon: You bet.

Mr. Wildman: Were you personally subjected to any attempt to influence you by another firm?

Mr. Armstrong: Before you answer the question, perhaps for the record, indicate clearly whether the other firm's investment was turned down eventually or not.

Mr. Cannon: Yes, it was turned down.

Mr. Wildman: That's what I understood. Okay. But were you personally, or was anyone on your staff subjected to any attempt to influence you and influence the decision that IDEA might make on their application on the basis of having political friends? Let me put it that way.

Mr. Cannon: Yes. Me.

Mr. Wildman: You were personally?

Mr. Cannon: Yes.

Mr. Wildman: Did that have any great influence in itself, in making your recommendation to the corporation?

Mr. Cannon: No, not a great one.

Mr. Wildman: Not adverse, or in any way ---

Mr. Cannon: What I told the people that were

involved who were suggesting to me that there might be ways that I could be persuaded to fall on the side of the line of a 'go' decision, was that anybody that approached me and suggested in any way, shape or form, that they were going to use any political connections or connections of any kind to assist their cause. The consistent answer they got from me was "I can guarantee you, that won't help your case, and you've probably hurt your case by coming at me that way".

Mr. Wildman: Okay, and this occurred sometime in the summer of '85.

Mr. Cannon: That's when I first got involved in this other investment. The subsequent investment decision to not proceed was made in November. But let me clarify that. The other proponent, the firm that came in with the proposal, asked us to invest in what I call an investment holding company. And it took me some time to sort out the nature of the vehicle in which we were being asked to make an investment. And when it became clear to me that it was an investment holding company, and therefore it would be an indirect investment, as opposed to a direct investment, that being that the investment holding company owned a number of subsidiaries, I said, "Absolutely not. We are absolutely no-go on that basis."

Mr. Wildman: But Mr. Blakeley told us yesterday ---

Mr. Cannon: That would be September/October ---

Mr. Wildman: You made the decision in September/October, so it's around the same time as this memo.

Mr. Cannon: It would have been, I think it would have been September because following that verbal 'No Go' on the investment holding company, that same proponent came back and made a secondary request; and that is "if you won't participate in the holding company up above, would you consider making a direct investment in any of the subsidiaries?" And I said, "Absolutely. I mean let's have a look and see what you've got."

Mr. Wildman: The final decision was then not to go ahead with anything in November?

Mr. Cannon: That is correct.

Mr. Wildman: All right. Thank you.

Mr. Chairman: Mr. Pope.

Mr. Pope: Who called you about this other group? Who called? Who was the individual that tried to influence your decision with respect to this other group?

Mr. Cannon: There were two individuals that called me. One of the individuals was one of the principals involved in the company that was making the financing request. Do we want names? But if I mention a name, that tells who the proponent is.

Mr. Chairman: Mr. Polsinelli, with a point of order.

Mr. Polsinelli: I would merely point out and I would seek direction from our legal counsel, but there is -- I understand that the witnesses may be opening themselves up to a potential legal situation, and if I'm not mistaken, they can claim immunity before the committee in any evidence that they may give.

Mr. Bell: They cannot?

Mr. Polsinelli: I understand that they can; I'm not sure about that.

Mr. Bell: They can claim -- they can seek and be granted as to the extent that committee can grant the protection of the Ontario Evidence Act. It has to be done in a way that the act requires it; but if I can be permitted here -- the two names that you have in mind -- are these people in any way connected with Wyda or with Mr. Caplan or the issues that are before this committee? Because if they are, there is a certain obligation that witnesses have, to give testimony that is relevant, and I think in any event, if people want to be absolutely secure in what they do, or reasonably secure, especially if they want to seek the protection of that act -- can you answer my first question?

Mr. Logan: Let me try. Let me try and help you this way. One of the proponents had no involvement whatsoever in Wyda. The principal however of the investment holding company that I referred to as being one of the two that contacted me -- now I'm going to say who it is.

Mr. Polsinelli: I'm just merely suggesting, Mr. Chairman, that for the protection of the witness, perhaps we should claim whatever protection this committee can afford, and I'm not in any way, understand, objecting to the question.

Mr. Pope: No, I agree, I think, if counsel are ready or prepared to do that. If not, counsel can have and should have a period of time to take the matter under advisement.

Mr. Wildman: Well, perhaps we can stand down that particular question until later.

Mr. Bell: Except that we have to be very careful, members, that the -- because there used to be, and maybe still is, among some members of the Bar, that all you had to do is seek the protection in a blanket way and it automatically afforded and that is not so. It has to be done in a way in that the committee or the tribunal or the court granting it has to agree that it is as if the protection is sought and given for every question that is asked and there is a precise way that it be done and that that precise way should be followed not only for Mr. Cannon, but for all of the witnesses that are appearing and it may be appropriate to defer that matter until such time as counsel and witnesses are able to seek the appropriate ---

Mr. Cannon: Let me try it another way because ---

Mr. Bell: Yes, by all means ---

Mr. Cannon: --- because it may help your question here.

Mr. Philip: Could we just have a moment ? This will take just a few seconds.

The committee recessed at 5:40 p.m.

The committee recommenced at 6:10 p.m.

Mr. Chairman: We'll try and get back to business. Mr. Armstrong, do you wish to comment?

Mr. Armstrong: Mr. Chairman and members, I

(Mr. Armstrong)

apologize for the delay. We had some concerns about this matter and the relevance of it and I would like to report as follows: that the two individuals involved in the other proposal -- there were two individuals in the other proposal -- not the Wyda proposal we have been discussing and which was approved.

Mr. Philip: Would you speak up? We can't hear. You had better say it again.

Mr. Armstrong: As Mr. Cannon has said -- there were two individuals involved in the other proposal -- not the Wyda proposal that was approved in March -- the other proposal. One of those persons is irrelevant in that that person had nothing to do with Wyda's proposal or the investment made. The other one is Anne Whalen-Griffin of the Ministry of Trade and Technology.

Mr. Chairman: Do you wish to continue, Mr. Pope?

Mr. Pope: This is a new name. Are you saying that this same individual had a role in the Wyda application?

Mr. Armstrong: I'll tell you what my understanding is.

Mr. Bell: Could I interrupt for a moment? Can the record indicate that that answer was given as if the protection of Section 9 of the Ontario Evidence Act had been sought and had been granted by this committee to the extent of it having been granted and that whatever protection the House can grant that answer, the witness and the person that gave it, through this committee that it has been granted.

Mr. Chairman: No problem with that?

Mr. Pope: No, that is fine. I wasn't trying to initiate a ---

Mr. Bell: No, no, but I want that at the earliest possible moment to be reflected in this record and I would like that to be put in ahead of the answer.

Mr. Philip: Do we have to repeat that?

Mr. Chairman: No, no.

Mr. Armstrong: So, this will apply to me and to everyone else sitting at this table?

Mr. Bell: Everybody in the room.

Mr. Armstrong: As I understand it, Anne Whalen-Griffin is a manager or was a manager at the time in the Ministry -- Industry, Trade and Technology and worked for Peter Barnes. And if I could just repeat ---

Mr. Polsinelli: What is the connection with Barnes?

Mr. Armstrong: Just a moment. You'll remember yesterday the evidence was that Mr. Barnes telephoned IDEA and said that this proposal was on its way and then it was received -- yes.

Mr. Bell: Right after the government practically had been sworn in, very shortly after.

Mr. Armstrong: Well, that is your recall. There is a difference of two months I believe and I'm not sure I can say a lot more than that.

Mr. Bell: I think what we would like you to say is what is that person's connection with Wyda and/or IDEA's investment in Wyda.

Mr. Armstrong: Well, that is it. I mean, that is the connection.

Mr. Gillies: --- is that she was a manager working under Peter Barnes and Peter was connected with the Wyda application and he was connected with the other groups of the commission.

Mr. Armstrong: Well, is that -- I'm not sure -- is that accurate?

Mr. Logan: The relevant part, I think, is that Mr. Barnes forwarded -- suggested -- that Wyda approach IDEA Corporation. That was the connection and it's a -- we were debating whether that was a sufficient enough connection to be disclosed if that was relevant.

Mr. Bell: Do you know specifically whether that individual had any direct dealings with Wyda and/or had

(Mr. Bell)

any direct involvement in IDEA's investment in Wyda?

Mr. Logan: That specific individual had no dealings with IDEA's investment in Wyda and I do not believe had any dealings whatsoever with Wyda.

Mr. Armstrong: This might have been quite a letdown after the long wait. I'm not sure.

Mr. Pope: I'm not sure I understand what the nature of the political influence is.

Mr. Epp: Nothing except he made a telephone call to say that the application --

Mr. Wildman: No, the Cumberland Group is what you are referring to.

Mr. Pope: Yes, the Cumberland Group. I mean, what is the nature of the political influence with respect to that particular applicant? You refer to experience, what was the experience that involved --

Mr. Wildman: What was the contrast?

Mr. Gillies: The contrast between the way Mr. Barnes' office treated the one situation as opposed to the other?

Mr. Logan: Perhaps I can put this into a little bit of context. Those of us at this table I think, or certainly the former IDEA employees or representatives of this table have, I believe, none of us have ever worked in government, for government, anything connected with government. Our experience with IDEA Corporation was an initial experience being related to government in some respects. We have understood all along that the IDEA Corporation was to be set up as an independent entity. It was to be arms length from the government.

We at all times tried to protect that independence and arms length relationship. Therefore, at any time when we received pressure from anybody who might be related to Queen's Park, whether that person was surely political -- as in a political party -- or if that person was a civil servant who thought we should do something and called up to tell us they thought we should do it, we perceived that whole thing as sort of

(Mr. Logan)

political. I think that is the perception of the non-political person who is on the outside. We didn't appreciate it because we thought we were to be arms length from anything to do with Queen's Park. We were making business investment decisions. So, therefore, whenever we got called from anybody related to Queen's Park, we perceived that as someone trying to bring pressure on us -- not whenever we got called. Let me keep in mind that we would get calls asking for information about the status of something. We did not object to that. We were glad to provide it. Someone might have complained to their MPP about something and the MPP would ask us the status of it. We would provide information. That was no problem. So, I shouldn't say whenever we get a call. But, whenever an individual associated with Queen's Park would communicate with us with the intention of trying to get us to agree to make an investment, we viewed that as being pressure that was coming from Queen's Park and we didn't appreciate it because we felt we were supposed to be arms length from that so I think that is the point. To get back to Mr. Pope's question -- that's what we viewed as being political.

Mr. Bell: When Mr. Barnes called Mr. Blakeley and first introduced Wyda, was that pressure perceived in that context?

Mr. Logan: No. Someone would approach a Ministry, and it wasn't always the Ministry of Industry, Trade and Technology. Sometimes it would be Agriculture, sometimes it would be another Ministry, and they might think it would be something that IDEA should be interested in, and they would contact us and suggest I'm sending a Mr. or Mrs. so-and-so to see you regarding a proposal right now for investment. That's no problem.

Mr. Philip: Can I ask a simple question here?

The Chairman: No, no, we have a procedure here and if we start that now -- no, I'm not going to allow it. You'll have an opportunity to ask questions later on. Mr. Pope, please continue.

Mr. Pope: What was the specific influence that this lady exerted on you that you found so regrettable that you had to put it in a memo?

Mr. Cannon: The lady dealt with me. She didn't deal with Daryl.

Mr. Pope: Okay. Obviously you had a discussion because Daryl felt it significant enough to write a memo back to you. What was it that was significant enough to merit all this attention?

Mr. Cannon: I had two discussions with this lady and in each case she said that she was calling on behalf of Peter Barnes who was not there and they were anxious to make sure that the investment would be put forward. I think it was either at the October or November board meeting because a concern had been expressed that IDEA Corporation was going to be out of business and therefore there wouldn't be any money available. I pointed out to the lady that she was making an assumption that I had already made the investment decision as a "go" decision and that that would be a recommendation going to the board, and I said at that point in time I had not made a final investment decision and clearly my inclination was not to proceed with the investment and that I told her that, as Daryl indicated before, I was absolutely in no way, shape or form interested in

July 3, 1986

(Mr. Cannon)

anything she had to say or anyone else had to say about any political connections or pressure I might receive to influence the decision. It was purely a business decision and that's it.

Mr. Pope: Did she say she was speaking on behalf of political connections?

Mr. Cannon: No. She called on behalf of Peter Barnes twice.

Mr. Pope: Was he a political connection?

Mr. Cannon: I think against -- I think in the context that Daryl described, he and I would see it exactly the same way.

Mr. Pope: And this was unusual that you had calls from the Ministry of Industry and Trade asking you to process expeditiously his application?

Mr. Logan: Well, not quite.

Mr. Cannon: No, that's not the question. Sorry, that's the question but it was not being brought to me that way again and the underlying assumption in the way she was dealing with me was that she assumed that I had made a "go" decision and therefore the only issue remaining was could I get it ready in time for the board and I said, 'you're assuming I have made an investment decision to go forward. That's absolutely incorrect. I have not made the decision. I will not be influenced. My information is not to proceed with the investment at this time.'

Mr. Wildman: Did she argue?

Mr. Cannon: I beg your pardon?

Mr. Wildman: Did she argue?

Mr. Cannon: She called me a second time to suggest that, how will I put it, she called a second time to again reaffirm that it was their expectation, it was hers and Peter's expectation that the investment decision

(Mr. Cannon)

was clearly a "go" decision and the only remaining decision was does this go before the board before IDEA closes.

The second time she called, I answered her the same way, a little less abrupt, a little more abrupt this time.

Mr. Wildman: Short fuse?

Mr. Cannon: Short fuse.

Mr. Pope: Okay. Did you share her perception that you would soon be out of money in October and that things had been finalized?

Mr. Cannon: I quite frankly didn't understand whether we'd be in money or out of money, ever.

Mr. Pope: Okay. Did you know or did any of you know whether or not you'd be out of money by October, and this is an employee of the Ministry of Industry, Trade and Technology telling you that? Was that your perception as well?

Mr. Logan: No, we knew that there was an evaluation of the IDEA Corporation going on and we knew the report would be delivered to the Government with a recommendation, and so that at some time in the not-too-distant future the final decision would be made. I think there was more of a perception in the community and amongst the people who had proposals before IDEA that they were worried that a decision to close IDEA would be made in the very near future.

I think that at that point in time some of us were still quite optimistic that we had sufficiently improved the performance of IDEA Corporation; that it would not be closed.

Mr. Pope: Who was doing this review of the IDEA Corporation in the fall of 1985?

Mr. Logan: It was done under Mr. Kruger's auspices and he had an individual, I believe from the Ministry of Transport, a lady from the Ministry of

(Mr. Logan)

Transport who was specifically looking at IDEA Corporation and Mr. Kruger was looking at a number of Crown corporations.

Mr. Pope: Who did you go to to receive funds in the Corporation.

Mr. Blakeley: We did not go to anyone. Funds were advanced on a regular basis.

Mr. Pope: What was the regular basis?

Mr. Blakeley: Every year.

Mr. Pope: By who?

Mr. Blakeley: By the Ministry.

Mr. Pope: Ministry of what?

Mr. Blakeley: The Ministry of Industry, Trade and Technology.

Mr. Pope: Do you know who they went to to establish your funding?

Mr. Blakeley: Went to the bank. Went to the Provincial Savings Bank.

Mr. Philip: That was the question. Can I just speak for a moment?

Mr. Pope: I'm not talking about where you get your money. Who approved your budget and who did the Ministry of Industry, Trade and Technology go to get budget approval for the IDEA Corporation?

Mr. Blakeley: I don't know. I presume Treasury.

Mr. Pope: Pardon?

Mr. Blakeley: I presume Treasury.

Mr. Pope: You don't know?

Mr. Blakeley: No.

Mr. Logan: No.

Mr. Maruzzo: No.

Mr. Cannon: No.

Mr. Logan: What might be helpful is Mr. Blakeley started with the IDEA Corporation in 1985. Mr. Cannon and I started I guess at the very end of that month, April, 1985. Mr. Maruzzo has been there a bit longer but I think what you're saying is a reflection that we don't really know how the workings of Government and how these things get through. We knew we had a budget and some money in the bank. We were trying to make investments.

Mr. Pope: Well, rather than me speculating on that -- I don't think that would be appropriate -- I guess the best I can do is ask our counsel to ascertain for us the process and I'll leave it at that.

I wanted to deal with, if I could, exactly the issue that you've been dealing with and it has a relevance to a later line of questioning. That's why I'm doing it and not for any other reason. I want you to understand that.

Would you tell me, each of you in turn, when you were first employed by the IDEA Corporation?

Mr. Blakeley: In my case, April 16th of 1985.

Mr. Logan: I think mine was, it would have been about a week to a week and a half after Mr. Blakeley, somewhere around April 25th or 26 of 1985.

Mr. Maruzzo: September, '83.

Mr. Cannon: The same day as Harold.

Mr. Phillips: Logan and Cannon are under consulting contracts.

Mr. Pope: Oh, I'm sorry. Are you still employed by IDEA Corporation?

Mr. Phillips: I can answer that. I'm still looking for a client.

Mr. Wildman: Are they looking for solicitors?

Mr. Pope: That is the end of that discussion then. Can you tell me, are you no longer employed?

Mr. Blakeley: That's right.

Mr. Pope: When did your employment end?

Mr. Blakeley: June 30th.

Mr. Pope: Yours?

Mr. Logan: I am no longer under contract since June 30th.

Mr. Pope: June 30th of this year?

Mr. Logan: Yes.

Mr. Maruzzo: Same thing.

Mr. Cannon: Same as Daryl.

Mr. Phillips: That's why we've got so much free time.

The Chairman: That's it. Time has expired, 6:30 and again I have to point out that if we want to extend that, we require unanimous approval.

Mr. Pope: What is your background before your employment at IDEA Corporation or your contracts with IDEA Corporation?

Mr. Blakeley: How far back do you want to go?

Mr. Pope: Just make it two or three years.

Mr. Blakeley: Immediately before coming to IDEA Corporation, I had my own corporation. It was called Tri Capital Management and was in the business of mergers and acquisitions. Immediately prior to that I was with the same company for seven years and that was Versatile

Vickers Inc. of Montreal.

Mr. Logan: I have been working on my own as an independent consultant since July of 1983. Prior to that, for four years I was a consultant with an international consulting firm called McKenzie & Company. Prior to that --

Mr. Pope: In those capacities, did you deal with computer technology issues?

Mr. Logan: No, but in terms of investing in them -- no.

Mr. Maruzzo: Prior to IDEA, I worked at Assembly Manufacturing for three years and prior to that I worked at the University of Toronto for six years.

Mr. Pope: In any of those capacities, were you involved with computer technology?

Mr. Maruzzo: Yes.

Mr. Pope: Yes.

Mr. Cannon: My background is in corporate finance in merchant banking and investment banking.

Mr. Pope: All right. Now the reason I ask this is very specific. When you were analyzing the wide application, did you investigate -- what investigation did you undertake with respect to Wyda as a company. Here is an application coming in, an application filed with you on August 12th. What investigations of this corporate structure did you do?

Mr. Logan: At the time they first applied, probably none as a corporation. Our normal practice is as laid out in Mr. McDonald's opening statement and that is we first did an evaluation of the technology and if it indeed looks like an innovative technology, we will perhaps carry on to do a more in-depth investigation of technology. Simultaneously we will start looking at the other aspects as to whether the company could be commercially viable so that includes the market, how big it is, how fast it's growing -- as laid out in this management whatnot. And it is typically not until we get -- much later in the process when we get to the point

(Mr. Logan)

where we want to make an investment that we start investigating the actual corporation itself.

The Chairman: Well, we'll go to the next questioner. Mr. Epp?

Mr. Epp: Thank you, Mr. Chairman. Mr. Blakeley, you mentioned earlier, with regard to the finder's fee, that Mr. Caplan's agreement with Wyda went up from \$2,000 to \$8,000, but he did not see that as a finder's fee. Is that correct?

Mr. Blakeley: That is correct.

Mr. Epp: But any connection that there--you didn't see it as a connection between what Mr. Caplan was charging after the IDEA Corporation gave the grant to Wyda; is that correct?

Mr. Blakeley: That is correct. By that time I knew what (inaudible) arrangement.

Mr. Epp: So that you have no doubt in your mind that there absolutely was no connection between the two?

Mr. Blakeley: That is correct.

Mr. Epp: Now--I think I'll leave it at that.

The Chairman: You're finished, Mr. Epp?

Mr. Epp: Yes, thank you.

The Chairman: Mr. Philip.

Mr. Philip: Mr. Cannon, during the negotiations, that whole period of time from the time in which Mr. Barnes first called Mr. Blakeley and the Wyda application was being processed--during that time, did you or anybody to your knowledge receive a call from either Mr. Barnes or from anybody in Mr. Barnes' office that could, in your estimation, be similarly threatening to the call you received from Mr. Barnes' office concerning the Cumberland group?

Mr. Cannon: I had no such call. I did not hear of any such call.

Mr. Philip: Did anyone else---

Mr. Phillips: Do you accept the phrase 'was

threatening'?

Mr. Cannon: What do you mean, 'do I accept'?

Mr. Phillips: Did you agree with that as a characterization of the call from the manager?

Mr. Cannon: Well, nobody called me on Wyda.

Mr. Phillips: No, on the other one. You know the one we're talking about. Did you view it as threatening? Do you adopt the 'threatening' that Mr. Philip has put to you?

Mr. Cannon: Oh, threatening. Oh, no; more a pain in the rear end than anything else.

---Laughter

Quite frankly, she was not going to win the day. I made the point very clearly. She might as well have stopped on the first call.

Mr. Philip: Well, sir, constipation is considered a pain in the rear end; it's also considered pressure.

---Laughter

Would you consider---

Mr. Cannon: I don't have hemorrhoids.

Mr. Philip: I won't ask any questions on that, and if I do, then you can---

Did you receive any calls during that period of time from Mr. Barnes' office or anyone associated with him, or did any one of you--and I would like to go through the whole row--similar to the kind of pressure that you seem to have indicated you received or felt that you were receiving during the Cumberland--during the dealings with the Cumberland application?

Mr. Cannon: As I said, I did not?

Mr. Philip: Did anyone else in this group receive any call from Mr. Barnes' office?

Mr. Maruzzo: I did not.

Mr. Blakeley: No.

Mr. Logan: No.

Mr. Philip: Okay, so the answer is 'no' to everyone here. Fine.

I'd like to ask Mr. Logan -- if we go to the final tab, I guess it's -- which was presented to the board and deals with the credentials of the staff -- Mr. Pope was just referring to that -- if I can just find the tab. Number 9, is it? Try 10.

Now, if you go through the project development team, and you have Wilf Caplan, and you outline what amounts to -- would you say that's a fairly positive description of Mr. Caplan, that he has financial capabilities, that he's the kind of person you'd want in that position?

I think the testimony earlier was that there were additional staff needed in that division, but that in no way detracted from the capabilities of Mr. Caplan as the financial vice-president. Would you agree with that?

Mr. Logan: Yes.

Mr. Philip: Okay. Did you in any way look into the background of Mr. Caplan in other reincarnations, if you want, or in other positions that he may have held, dealing as a financial consultant, in order to make that assessment that is found on that page?

Mr. Logan: I do not believe -- I believe the answer to that would be no.

Mr. Philip: You're investing an awful lot of money and you're saying the chief financial officer -- you didn't check into his track record in handling finance and acting as the chief financial officer and advisor to the company?

Mr. Logan: In this particular case, I don't think we did.

Mr. Philip: Okay. Would you--can I refer you to the confidential memo which was written to Elinor Caplan by Mary Eberts, the lawyer who was acting as an advisor to the Cabinet or would-be Cabinet? It's in a -- you have a large binder -- 10A.

Mr. Logan: Yes, 10A? N-A?

Mr. Wildman: N as in Norman, N-A.

Mr. Philip: The letter that starts off, 'Dear Elinor'.

Mr. Logan: Yes.

Mr. Philip: All right. I wonder if I can refer you ---

Mr. Phillips: Can we read this?

Mr. Logan: We haven't read this letter.

Mr. Philip: Okay.

---Pause

The aspect I want to refer you to in that -- I don't want you to necessarily condense the whole thing and figure out what I'm getting at -- is there's some concern about the situation respecting PEC, that Mr. Caplan was associated with, and I'm wondering if you're aware of the history of PEC and what happened to that organization financially.

Mr. Logan: I believe the company was eventually wound up or sold; I'm not sure, but ---

Mr. Philip: Am I right in saying ---

Mr. Logan: --- I'm not terribly -- I guess I have to say I'm not very knowledgeable about PEC.

Mr. Philip: Am I right in saying there's a \$23 million bankruptcy involved ---

Mr. Logan: I don't know.

Mr. Philip: --- with this major company?

Mr. Logan: I don't know.

Mr. Philip: I guess my concern to you is, here you have a major investment, and here you have a presentation of all of these wonderful people who are going to take care of, quote, "the taxpayers' investment," and the chief financial officer, you haven't checked into his background, and the fact that maybe his track record may not be as glorious as the picture that one would seem to think by looking at the resume -- I mean, would you hire somebody for your own company without checking on his background? Here you're hiring what amounts to the chief financial officer of a company that you're investing millions of dollars in.

Mr. Phillips: Excuse me. Mr. Logan, do you adopt that description of 'hiring a chief financial officer'?

Mr. Philip: And glorious?

Mr. Phillips: And glorious?

Mr. Logan: Would you repeat your question, Mr. Philip?

Mr. Wildman: Just don't use adjectives.

Mr. Philip: Would you accept that if you were hiring someone to act as a financial officer in a corporation that you owned for major shares that you would at least want to check what his previous work record was?

Mr. Logan: If I was hiring a chief financial officer for my firm I would check his previous ---

Mr. Philip: If you were investing in a company in which the chief financial officer was making major decisions, you would want to at least check out his track record?

Mr. Logan: We would want to check out the track record of the management as a whole ---

The Chairman: Excuse me; I would ask that you

July 3, 1986

(The Chairman)

open that door; this room is stifling and we have someone closing that door on a frequent basis. If there is a problem for the people at the rear of the room I would suggest that they move forward.

Please continue.

Mr. Logan: --- so that we typically would into the background of the management as a whole. I think if you go through those three pages we placed the emphasis on the strength of the management team in the first few slots ---

Mr. Philip: But basically what you were doing was putting your -- is it not fair to say that what you were doing was putting your major emphasis on the research and development? No one is questioning whether or not it is a good idea or not -- at least at this point in time; we don't know enough about that to question intelligently without dealing with problems and patents, and Lord knows what all -- but, giving you the benefit of that, it would appear that you came to the conclusion that there are some great technical skills involved, but when it came to the financial skills, you didn't check into the background and track record of the chief financial officer who is going to handle the money, the investments, who is going to act as the financial vice-president of the company.

Mr. Logan: The major financial decisions by the company would be made by the board of directors of the company, such as setting its budgets and its annual goals, and we would have had a major input. The role of the vice-president of finance is to be able to prepare projections and to handle the management of the funds, but ---

Mr. Philip: But the financial decisions are made on the judgments of a man associated with a company who just a year or two before had gone into -- had gone into receivership in July.

Mr. Logan: Well, Mr. Philip, I can answer you this, that I don't believe -- and I would have to go back into our file -- keep in mind that I don't do all of the analysis -- but I don't believe that we check into the

(Mr. Logan)

personal background. I may have to stand corrected that we did do some checking and had we looked at it and found that Mr. Caplan had had a major influence on a company going bankrupt, that may have been a concern or ours.

Let me suggest, though, also that when we do look into the backgrounds of proponents who come to the IDEA Corporation, the fact that they have failed in some earlier venture is not necessarily anything that is abhorrent; in fact, people often learn by their failures, especially entrepreneurs who have tried to start enterprises in the past or who have been involved in the past, they typically learn from their failures and often do better in subsequent ventures.

So it would not necessarily have been a negative, but I am afraid I don't know what his role and involvement ---

Mr. Philip: All I can say is: if I had a stockbroker that gave me advice based on the idea that you should invest in this company because the treasurer has gone into bankruptcy in the previous company and therefore he's had a learning experience, I think I'd change stockbrokers.

Mr. Logan: Well, I'd suggest if your stockbroker suggests that's why you should invest, then I'd agree with you; but that's not what I'm suggesting was the basis for our decision. I'm suggesting the basis for our decision was an overall management team that we felt was particularly strong on the technical side and had decent coverage in the other areas.

July 3, 1986

Mr. Philip: Now, Mr. Logan, how did you come to that conclusion? You're the one that I understand -- am I correct that you prepared this breakdown for the board, under Tab 11 -- under Tab 10 -- and it basically paints what seems to be a fairly strong management team, including the treasurer ---

Mr. Logan: Yes ---

Mr. Philip: --- and you haven't even checked into that treasurer's background, or track record. How do you come to the conclusion that, you know, that here we've got to have decent coverage and operating areas?

Mr. Logan: --- because we felt, on the basis of the information that was provided to me, that that was an accurate statement.

Mr. Philip: Where did you get all the information?

Mr. Logan: We were provided with resumes on all of the individuals.

Mr. Philip: And you didn't check the resume in Caplan's case?

Mr. Logan: I think I said that I do not -- am not aware of checking in his personal matters.

Mr. Philip: Okay. Who was it that said, "What's in a billion?" Well, I guess, what's in six million.

Let me ask Mr. Blakeley a couple of questions, a few questions. Am I correct in saying that the first time that you came to know about Wilf Caplan's involvement with Wyda was on February the 19th, when the document that I've just referred to was presented to the board? In other words, when Tab 10 was presented? Was that what you ---

Mr. Blakeley: That is not correct.

Mr. Philip: That is not correct? Okay. Would you correct me then?

Mr. Blakeley: Yes. The first I learned of Mr. Caplan's connection or involvement with Wyda was in the

original business plan that was submitted on August -- that we received on August 12th, where he is named ---

Mr. Philip: On August the 12th. Were you -- what tab would that be?

Mr. Blakeley: Two.

Mr. Philip: Tab 2, okay. And I've got that as July the 4th, but let me just check it.

Mr. Blakeley: It was written July 4th, received by ---

Mr. Philip: Okay, so you were aware then, but were you aware of his connections with the Cabinet Minister at that point?

Mr. Blakeley: Personally, It occurred to me, yes ---

Mr. Philip: It occurred to you ---

Mr. Blakeley: As I said yesterday, what triggered my mind on it was the spelling of the name, because Caplan is normally spelled K-A-P-L-A-N, and I recognized, you know, was fully aware of who was whom in the Ontario government and I knew it, and I connected it by the spelling of the name.

Mr. Philip: Okay. So you connected on July the 4th -- I mean on August when you are dealing with the document of July the 4th you connected also on September the 9th, I would imagine, since it's covered under Tab 4 ---

Mr. Blakeley: Yes.

Mr. Philip: --- you -- is that correct?

Mr. Blakeley: That's right.

Mr. Philip: And then you connected again under Tab 5, which is the one that we just referred to, in which you received a memo from Mr. Logan ---

Mr. Blakeley: That's right.

Mr. Philip: Okay. And then it's connected again on February the 19th in which there's a board

July 3, 1986

meeting and you're discussing the qualifications.

During all of that period of time did you consider it in any way your responsibility to check out the background, or track record of Mr. Caplan, since he was a prime player in this?

Mr. Blakeley: Not up to that time.

Mr. Philip: Not up until that time.

Mr. Phillips: Did you agree he's a prime player?

Mr. Philip: Okay, let me put something else in perspective.

This particular draft is presented to the board, and as we understand from the evidence, you told the board, or advised the board ---

Mr. Armstrong: No, Mr. Philip, if you refer to Mr. Macdonald's statement ---

Mr. Philip: So it's Mr. Macdonald's -- advised the board ---

Mr. Armstrong: No, Mr. Philip, the statement reads: "At an early point in the presentation, Mr. Logan reviewed Wyda's management team and made reference to Mr. Wilf Caplan as being the Vice-President, Finance. In other words, when he got to this slide Mr. Logan said that. And then it goes on to say: "He said that Mr. Caplan was the husband of an Ontario cabinet minister." And Mr. Macdonald says in the statement, "Since this was the first occasion on which the board had to consider a proposal from a company where one of the members of its management team was the spouse of a cabinet minister, I felt that it was important to give the board members an opportunity to make any comments they might have."

He goes on to say, "The board was unanimous in its view that the proposal from Wyda would be considered in the same manner as any other proposals, namely, on its ability to meet the criteria I have just enumerated." End of paragraph 10.

Mr. Philips: Mr. Blakeley, were you involved in that discussion?

Mr. Blakeley: No, I'm not a director.

Mr. Philip: No, but you were at the meeting and you are an advisor to the board?

Mr. Blakeley: Yes. Yes.

Mr. Philip: So, were you involved in that discussion at all concerning Mr. Caplan?

Mr. Blakeley: There was no discussion. The Chairman, as I recall, and as I stated yesterday, went around the table and asked each of the directors if there was any dissent or opinion that they would like to express. As I said yesterday also, I believe, there was none.

Mr. Philip: Can you give us any reason why you think there would not have been a discussion about this at this point in time?

Mr. Blakeley: Not up to that time.

Mr. Philip: Well, may I suggest that there is an interesting set of events and maybe they are coincidence but let me suggest to you that they are interesting. June 26th, '85, there is a new government. On August the 12th Barnes calls you about this particular application. Four days before this you are in fact told that there is the winding down of the operation.

Mr. Armstrong: Excuse me. Are you saying August the 8th?

Mr. Philip: Four days before the February the 19th there is ---

Mr. Armstrong: No. No. You said, "You're at August 12, '85." That would be August the 8th, '85.

Mr. Philip: Okay, August the 8th of '85 you get the call from Barnes.

Mr. Cannon: No.

Mr. Armstrong: You said, "a winddown at the IDEIA Corporation".

Mr. Pope: That would have been October.

July 3, 1986

Mr. Philip: Would you get the signal then there is the winddown?

Mr. Gillies: Assuming the Treasury ---

Mr. Philip: Okay, in October of '85. But you get further confirmation then of it from Mr. Kruger in more detail, do you not, three or four days before this meeting -- February the 19th?

Mr. Blakeley: That is right.

Mr. Logan: Not three or four days before the meeting -- February 19th, yes.

Mr. Blakeley: You said February ---

Mr. Philip: Did you not receive word from Mr. Kruger prior to the 19th that there was going to be the winddown?

Mr. Blakeley: No.

Mr. Philip: So, on the 19th then you received the word from Mr. Kruger that there is the winddown?

Mr. Blakeley: By June 30th.

Mr. Philip: By June 30th. May I suggest to you that there might have been strong motivation on the part of all of you to at least be receptive to what Mr. Barnes might be concerned about -- a major application? Because here is the guy along with Kruger who is putting you out of business and that maybe that had something to do with the motivation of the board in not questioning the relationship with Caplan or his competence or his background -- that maybe that was why there was very little discussion of whether Mr. Caplan was the strong financial technician that you needed in that post or indeed that there may have been something inappropriate of his relationship with the Cabinet Ministers.

Mr. Polsinelli: That is really grasping at straws.

Mr. Phillips: Could you repeat the question?

Mr. Cannon: One of the components that I would

ask you to repeat is did you say -- is that referring to all of us? Are you asking all of us to respond to that?

Mr. Philip: No. I'm asking Mr. Blakeley.

Mr. Cannon: Well, I think you mentioned all.

Mr. Logan: You said all.

Mr. Philip: No. Mr. Blakeley was at the board meeting and therefore he would have some insight as to what went on and why the board did not in fact discuss this major piece of evidence that I would think one ---

Mr. Armstrong: So, you are asking us to speculate on why there was no discussion of Mr. Macdonald ---

Mr. Philip: And that is a legitimate question.

Mr. Phillips: We do not accept the fact that it was a major piece of evidence.

The Chairman: Mr. Philip, your time has expired by a couple of minutes actually -- I lost track of it and we did indicate that we would adjourn at seven o'clock or very close to that.

Mr. Epp: Mr. Chairman, I just want to say that it is very unfair to ask these people to speculate on why each person around that table did not say something.

Mr. Philip: I'm not asking each of them. I'm asking the one person that was at the meeting.

Mr. Epp: I mean how can anyone know how each of those persons -- why they would speculate or not speculate. I mean that is a very unfair question.

Mr. Phillips: Mr. Chairman, it was answered absolutely in the negative by Mr. Blakeley and I hope that it appears in the record.

Mr. Wildman: Mr. Chairman, to be fair to the witnesses, I think that we should give them the opportunity to respond to whether or not the set of events enumerated by my colleague in any way might have influenced, stacked against a stronger survey of Mr.

Caplan's relationship and background and competence in your work towards recommending approval over the Wyda application.

Mr. Logan: I don't believe that had -- the sequence of events Mr. Philip recited had anything to do whatsoever with our evaluation of Wyda as an investment. I might further state that what we typically view as being the most critical with any investment is the entrepreneur who is really leading that investment. In this case that is Mr. Dobzinski.

The other people are all supporting staff and when you have typically a small sort of company you don't expect to have the most qualified people in the world in every major support position. So, the key entrepreneur who is leading that effort is the absolute key individual and that is Mr. Dobzinski. Then you have to look at, when you are dealing in technology, is how good is his technical support and that is by far the second most important thing because if you don't have a good product you have nothing.

The next thing you have to look at is your marketing support because you have got to introduce this thing into the market place and the rest of it is really, by in large, second fiddle.

In addition, this company had already had a budget -- an SRTC financing in excess of \$9 million and to the best of our evaluation had handled expenditures of those funds in a satisfactory way.

Mr. Chairman: Well, it is past seven o'clock. We've allowed Mr. Logan sufficient opportunity. He'll have further time this evening if he wants to expand on that.

The committee recessed at 7:05 p.m.

P-18

STANDING COMMITTEE ON PUBLIC ACCOUNTS

ALLEGED CONFLICT OF INTEREST

THURSDAY, JULY 3, 1986

Evening Sitting

Draft Transcript



STANDING COMMITTEE ON PUBLIC ACCOUNTS

CHAIRMAN: Runciman, R.W. (Leeds PC)

VICE-CHAIRMAN: Gillies, P.A. (Brantford PC)

Epp, H.A. (Waterloo North L)

Gordon, J.K. (Sudbury PC)

Philip, E.T. (Etobicoke NDP)

Polsinelli, C. (Yorkview L)

Pope, A.W. (Cochrane South PC)

Wildman, B. (Algoma NDP)

Substitutions:

McGuigan J.F. (Kent-Elgin L) for Mr. D.W. Smith

Ward, C.C. (Wentworth North L) for Mr. Ferraro

Clerk: Arnott, D.

Staff:

Fritz, H., Research Officer, Legislative Research Service

Bell, J., Counsel; with Shibley, Righton and McCutcheon

Peters, M., Associate Counsel; with Shibley, Righton and McCutcheon

Witnesses:

Harold Blakeley, the former President of the IDEA Corporation

Daryl Logan, a former Vice-President, Innovation Assistance

Bruno Maruzzo, a former Senior Manager, Technical Assessment

Geoff Cannon

John Phillips, Counsel

Simon Armstrong, Counsel

LEGISLATIVE ASSEMBLY OF ONTARIO
STANDING COMMITTEE ON PUBLIC ACCOUNTS

Thursday, July 3, 1986

The committee met at 8:11 p.m. in committee room 228.

The Chairman: May we come to order, please?

Mr. Logan, did you wish to expand on your remarks that you -- I thought you completed at 7:00, but if you have anything further you want to add at this stage, I'll give you that opportunity.

Mr. Logan: No, Mr. Chairman. I have nothing more to add at this point.

Mr. Chairman: All right. Thank you.

Mr. Gillies?

The Vice-Chairman: Thank you, Mr. Chairman.

Gentlemen, I'd like to just ask you a bit about the corporation. Perhaps, Mr. Blakeley, I should ask you these, and if you want to refer any of them -- just about the situation -- in the October budget of last fall, Mr. Nixon indicated that in all likelihood IDEA was to be wound down, and that he and the government were looking for another more appropriate vehicle for high technology investment, which then was followed by the February memo, and then the direction that June 30th would be it.

Can you tell me what is going to become of the portfolio? What's going to happen to the investments that have been made into companies by IDEA?

Mr. Blakeley: I can't answer that. That's up to -- all we know is that responsibility for it has been transferred to the Ontario Development Corporation.

The Vice-Chairman: To ODC. Okay.

Are any, to the best of your knowledge -- and I appreciate that you're no longer with the corporation -- but is there any plan to privatize any of that investment?

July 3, 1986

Mr. Blakeley: Not to my knowledge.

The Vice-Chairman: Okay. Pretty well from October on your operation was working under, if not the knowledge, at least a very strong indication that IDEA was going to be wound down, and that basically June 30th an awful lot of you were going to be looking for jobs.

I wonder if you're aware of IDEA employees who may have gone on to work in companies that they dealt with during the period that they were IDEA employees?

Mr. Blakeley: Well, in the first place, we did not know last October that IDEA would be wound down in June. We didn't know that until February.

The Vice-Chairman: M'hm.

Mr. Blakeley: Now, I'd like to know the second part of your question. I'm sorry.

The Vice-Chairman: What I'd like to know is this: whether any of your former employees from IDEA have gone on since the winddown to employment in companies that dealt with IDEA.

Mr. Armstrong: Do you mean companies that IDEA invested in?

The Vice-Chairman: Yes.

Mr. Blakeley: As employees, would that include contractual?

The Vice-Chairman: Yes.

Mr. Blakeley: As far as I know, only one.

The Vice-Chairman: M'hm. Who would that be?

Mr. Blakeley: Mr. Bill Douglas.

The Vice-Chairman: Right. And he is now with Graham Software?

Mr. Blakeley: He's on a retainer, as I understand it.

July 3, 1986

The Vice-Chairman: Right. Nobody who worked on the Wyda file has still gone on to employment with the Wyda Corporation?

Mr. Blakeley: M'hm.

Mr. Armstrong: The answer's no?

Mr. Blakeley: The answer's no.

Mr. Armstrong: The answer's no.

The Vice-Chairman: Okay.

When Mr. Carmen was before us, he indicated that he had a discussion with Mr. John Kruger, at which time the question of Mr. Caplan's association with the Wyda came up. And the reason I put this to you is that Mr. Carmen said it was in the context of discussing your future with the government, or possible employment. Do you know in what context that may have been?

Mr. Blakeley: Can I look at the transcript?

The Vice-Chairman: Yes, I have it here. This is the transcript of last Wednesday morning, June 25th, on pages 30 and 31.

Mr. Blakeley: I don't have that transcript.

The Vice-Chairman: Well, I'll read you the excerpt, and then I can hand it to you, if you like.

I asked Mr. Carmen if he was contacted by anybody regarding the Wyda deal and regarding Mr. Caplan's relationship with Wyda, and he said: "Yes, Mr. Kruger mentioned it to me."

And I said: "Mr. Kruger mentioned it to you prior to June 10th. May I ask in what context he raised it?"

Mr. Carmen: "He raised it in the context that there was some connection, but he saw no problem with it, as I recall the discussion."

I then asked him in what context it was raised in the conversation.

July 3, 1986

Mr. Carmen: "It came up in context with some discussions regarding Mr. Blakeley's arrangements with the government."

I said: "Mr. Blakeley's arrangements with the government being what?"

Mr. Carmen: "Because the IDEA Corporation was being phased out, Mr. Blakeley's future with the government was being negotiated by Mr. Kruger."

Do you know what that would be referring to?

Mr. Blakeley: No, except discussions I had with Mr. Kruger regarding my separation.

July 3, 1986

The Vice-Chairman: Okay. Was Mr. ---

Mr. Pope: Go on to the first page ---

The Vice-Chairman: --- were either Mr. Kruger

Mr. Phillips: Give me a moment to read this;
it's been handed to us by Mr. Pope.

The Vice-Chairman: Okay?

All right, I'll ask you the same series of
questions I asked Mr. Carmen at the time.

Well, let me ask one initial question.

Did you at any time call Mr. Kruger and in any
way bring to his attention the relationship between Mr.
Caplan and Wyda?

Mr. Blakeley: No.

The Vice-Chairman: Okay. Were you contacted at
any time prior to June 10th, when I raised this matter in
the Legislature? Were you contacted by any official in
the Ministry of Industry, Trade and Technology, regarding
Mr. Caplan's relationship with Wyda?

Mr. Blakeley: No.

The Vice-Chairman: Were you contacted prior to
June 10th by any official in the office of the Premier,
or the Cabinet office regarding Mr. Caplan's relationship
with Wyda?

Mr. Blakeley: No.

The Vice-Chairman: By any other ministry of the
government?

Mr. Blakeley: No.

The Vice-Chairman: Okay. Conversely, prior to
June 10th, did you contact Mr. Kruger? Did you contact
any official of the Premier's office, Cabinet office, the
Ministry of Industry, Trade and Technology, or any other
ministry, to communicate to them anything regarding the

Mr. Carmen: "It came up in context with some discussions regarding Mr. Blakeley's arrangements with the government."

I said: "Mr. Blakeley's arrangements with the government being what?"

Mr. Carmen: "Because the IDEA Corporation was being phased out, Mr. Blakeley's future with the government was being negotiated by Mr. Kruger."

Do you know what that would be referring to?

Mr. Blakeley: No, except discussions I had with Mr. Kruger regarding my separation.

July 3, 1986

The Vice-Chairman: Okay. Was Mr. ---

Mr. Pope: Go on to the first page ---

The Vice-Chairman: --- were either Mr. Kruger

Mr. Phillips: Give me a moment to read this; it's been handed to us by Mr. Pope.

The Vice-Chairman: Okay?

All right, I'll ask you the same series of questions I asked Mr. Carmen at the time.

Well, let me ask one initial question.

Did you at any time call Mr. Kruger and in any way bring to his attention the relationship between Mr. Caplan and Wyda?

Mr. Blakeley: No.

The Vice-Chairman: Okay. Were you contacted at any time prior to June 10th, when I raised this matter in the Legislature? Were you contacted by any official in the Ministry of Industry, Trade and Technology, regarding Mr. Caplan's relationship with Wyda?

Mr. Blakeley: No.

The Vice-Chairman: Were you contacted prior to June 10th by any official in the office of the Premier, or the Cabinet office regarding Mr. Caplan's relationship with Wyda?

Mr. Blakeley: No.

The Vice-Chairman: By any other ministry of the government?

Mr. Blakeley: No.

The Vice-Chairman: Okay. Conversely, prior to June 10th, did you contact Mr. Kruger? Did you contact any official of the Premier's office, Cabinet office, the Ministry of Industry, Trade and Technology, or any other ministry, to communicate to them anything regarding the

Wyda proposal?

Mr. Blakeley: No, the only person that had any discussion about the matter was Mr. MacKinnon, at the board meeting, who was a director of the Ministry.

The Vice-Chairman: Okay, Mr. MacKinnon; that's the board meeting of which date?

Mr. Blakeley: No, prior to ---

The Vice-Chairman: I'm sorry, there's been so many meetings ---

Mr. Blakeley: The 6th? He wasn't there March the 6th. No, I'm sorry, I take that back. My dates are out of order. You say June 10th?

The Vice-Chairman: Yes, anytime prior to ---

Mr. Blakeley: To June 10th. No, the answer is no.

The Vice-Chairman: Okay.

So we have to assume then, that Mr. Kruger and Mr. Carmen discussed this matter; it came up in a conversation regarding you, but you in no way communicated with either of them about the facts at hand?

Mr. Blakeley: No.

The Vice-Chairman: Okay. Could I ask -- gentlemen, I just want to -- there were six questions there really, and just to summarize, I asked your colleague if he was contacted by anybody in Industry and Trade, anyone in the Premier's office, anyone in Cabinet office, or did he contact anyone in those three places.

Could I ask you, Mr. Logan, Mr. Maruzzo, Mr. Cannon, each to respond to those same questions?

Mr. Logan: I had no contact with anybody in any of those dates; I cannot remember the exact dates, but I did place a call to Mr. MacKinnon at the ODC, as the ODC was overseeing IDEA Corporation, with regard to my proposal which I was taking to the June 18th board meeting because it was going to be different from what I

July 3, 1986

(Mr. Logan)

-- from the May 5th board meeting, which didn't get heard -- but I believe, Mr. Gillies, that that happened after June 10th.

The Vice-Chairman: Okay.

Mr. Maruzzo?

Mr. Maruzzo: I don't believe so -- June 10th?

The Vice-Chairman: Anytime prior to June 10th.-

Mr. Maruzzo: I don't think so.

The Vice-Chairman: Mr. Cannon?

Mr. Cannon: No to the six.

The Vice-Chairman: Okay.

I want to go back, Mr. Cannon, for a minute, if I might. If you refer to the item in the green binder at tab 4, this is the memo to you from Mr. Parikh.

Can you tell me again -- I thought I had a note of it here somewhere -- but in earlier testimony today you told us the first time that you became aware of the Caplan connection to Wyda. Can you tell us again when that was?

It's not in here; it's just something you said earlier, the first time that you became aware of who Wilfred Caplan was and the context of his relationship to the government.

Mr. Cannon: Oh, that was in -- when Daryl sent his memo to Harold and I, whatever date that is.

The Vice-Chairman: Okay, you're referring now to the October 16th memo?

Mr. Cannon: That's correct.

The Vice-Chairman: Okay.

In the memo that you got from Mr. Parikh, if you

July 3, 1986

look at the last page, page 4, I want to quote you the third last paragraph there.

Mr. Cannon: M'hm.

The Vice-Chairman: You can see it: "Apparently this company is backed by prominent people, and Harold Blakeley wants to review this assessment with Peter Barnes after it's completed. He's asked me to keep him informed regarding our review."

Did you not -- was your curiosity not caught by what Mr. Parikh said in that memo? Did you never ask him or anyone else who these important people were, or why Mr. Barnes had an interest in this particular application?

Mr. Cannon: No, I did not ask him that.

July 3, 1986

Mr. Gillies: You didn't.

Mr. Cannon: No.

Mr. Gillies: How common is it -- that didn't catch your attention particularly. Is it very common with applications that were going before you to have attached to them memos and directions that this, that or the other official has an interest in it?

Mr. Cannon: Could you repeat that?

Mr. Gillies: Well, I am just wondering how common it was. I mean, this didn't catch your attention at all. Here Peter Barnes at the time, Assistant Deputy Minister, had expressed an interest in this particular application and wanted to be kept apprised of it -- that didn't catch your attention particularly. You didn't follow up on it or ask well who wants to know or who are these important people. So, that just has me wondering how common it is. Do a lot of applications come in with notations like that attached to them?

Mr. Armstrong: Mr. Gillies, this is a memo. This isn't the application.

Mr. Gillies: I know, memo, application, any of it. I'm just wondering how much paper was there floating around IDEA saying flag this one for Peter Barnes or Pat Lavelle wants to know about that one. Is it common or is it not?

Mr. Cannon: You are referring now to internal memos as opposed to proposals that come in the door?

Mr. Gillies: Yes.

Mr. Cannon: I really don't know how common that is. What I can say is that whether it is frequent or infrequent, my approach was consistent throughout. I just continually ignored it. It made no difference to me whatsoever.

Mr. Gillies: Yes, well, I appreciate that. I'm not questioning at this point your reactions to these things but you said whether it was there or not you ignored it. It sounds like it happened fairly often or was not an uncommon occurrence for such notations to accompany a memo.

Mr. Cannon: Again, I don't know. I couldn't say whether it is common or uncommon. I would have to lean on the side of it being uncommon.

Mr. Gillies: Okay.

Mr. Logan, your Memo Number Five, the one drawing the comparison to the Cumberland Group --

Mr. Logan: --- the contrast.

Mr. Gillies: The contrast. Pardon me, yes. The -- again, perhaps I'll put to you basically the same question I just put to Mr. Cannon. Was this so exceptional to have political influence exerted on an application that you felt compelled to write a memo about it or was it really fairly commonplace?

Mr. Logan: It is not particularly commonplace to have pressure exerted.

Mr. Gillies: Okay. Let's think about -- what were some of the other multi-million dollar approvals last year apart from Wyda? There was Graham Software ---

Mr. Logan: Do we want to get into this?

Mr. Pope: Yes, we do.

Mr. Gillies: Graham Software and -- could you give me another example of a successful grant of lets say over \$2 million ?

The Chairman: Mr. Gillies, I wonder if you could clear up for me and for the rest of the committee the relevance of this. Thank you.

Mr. Gillies: Well, the relevance ---

Mr. Pope: Just a second. Since when does Mr. Gilles as a member of this committee have to establish relevance in your eyes?

The Chairman: Well, if you are violating what we set out as the issues to deal with, I think that it is clear that we have to stay within those.

Mr. Pope: Give us a break. He is entitled to

July 3, 1986

ask about what approvals have been given for the last year. He is entitled to put the question the way he wants it. What is this? Are you guys the censors all of a sudden? Give me a break. He is entitled to ask his questions the way he wants.

Mr. Chairman: Let's have some order please.

Mr. Gillies, do you have any difficulty in ---

Mr. Pope: Do you want me to go on a fishing trip? We'll be here for the rest of the night.

Mr. Ward: You have been on a fishing trip. -

Mr. Gillies: Before I was interrupted, Mr. Chairman, I asked for ---

Mr. Epp: I don't think that is fair to the chair because the Chairman interrupted you ---

The Chairman: Our counsel has expressed an concern. The counsel for IDEA has expressed a concern. I am asking if you would give us an indication ---

Mr. Gillies: Mr. Chairman, what I am trying to establish is that or what I am trying to find out is whether the memos that are under tab 4 and 5, both of which mention or allude to political influence, being exerted or attempted to be exerted on applications for the corporation. I am trying to determine whether this was commonplace. I am trying to draw some parallel or at least have some basis for comparison as to whether there was anything exceptional regarding the Wyda application as opposed to several others that may have been before them in the last year.

Mr. Bell: Let me just tell you what my concern is. It flows from what we experienced this afternoon. I understand that there are certain problems or certain obligations the IDEA had as for confidentiality and I am only concerned that they not be put in a position of disclosing information which may get to be difficult. Now, Mr. Phillips has already indicated probably concurrently with me that concern and I know this committee doesn't want to get any witness into a situation of disclosing information that is not in accordance with any obligation. That is the reason for my concern. I tell you though, it can be dealt with in a manner that the thing was dealt with this afternoon. I

July 3, 1966

have a duty to the committee and I believe through the committee -- the witnesses -- to express concerns when I have them on that basis.

Mr. Gillies: Well, what we are really saying is that we have to deal with this particular application and this particular series of events in complete isolation and without any basis of comparison with anything else that the IDEA Corporation was doing in the last year.

Mr. Bell: No, no. I'm not suggesting -- I'm just suggesting, I guess I am reminding the witnesses and their counsel in the room that they express concerns as for confidentiality in other contexts and I want them to be alert to that concern.

I am doubly concerned that there is no entity that further exists called the IDEA Corporation that can indemnify the people that are before you. There is a principle of law called vicarious liability wherein employers that have substance to satisfy judgement will indemnify people who are employed by or directed by them to perform in the act. To be very frank, I have a concern that this doesn't exist here anymore. That is the reason for my concern. I'm not directing any questions. I'm raising that because I feel that I have a duty through the committee to those witnesses to do so.

The Chairman: Well, what is your advice in respect to what Mr. Gillies has just outlined in terms of the direction?

July 3, 1986

The Chairman: Well, what's your advice with respect to what Mr. Gillies has just outlined in terms of a direction?

Mr. Bell: Well, the witnesses have to be guided by their counsel as to whether and to what extent they have concerns as per those questions in the bounds of what I've given. And maybe Mr. Armstrong should be permitted to express what the concern is. Then I can comment, I think, if it's appropriate.

Mr. Phillips: I think -- someone interrupt me if I get out of hand or fall short -- we'd like to be as helpful as we can. We don't want to -- we think it's contrary to, I suppose, the investors' duty to the investees to be specific. I've just been informed that all investments made by IDEA are ultimately published in an annual report. So we can name the names, I suppose, generically.

What we don't want to do is start -- if there is anything specific to any specific investment -- getting into that specific to the investment. We don't mind listing the names of the investments, because they're going to be public information as soon as the report comes out.

Mr. Bell: I didn't take it that Mr. Gillies intended to do that, to explore that detail of other ---

The Vice-Chairman: No, no, no. I don't want to get into the financial detail of any of your other clients.

Mr. Phillips: I don't want to relate the matter that is being discussed in connection with this investment in respect of other investments specifically.

Mr. Pope: Well then, we have a disagreement. Why can't we ask?

Mr. Blakeley: You can ask, but what restrains us in that first instance from answering is that it's off topic in our minds, and it breaches a sense of confidentiality that we have. That's a pretty vague principle which ---

The Vice-Chairman: I want you to appreciate the problem this poses for members of the Committee. We're

being asked to adjudicate a handling of one application before your corporation ---

Mr. Phillips: Exactly.

The Vice-Chairman: --- without reference to the regular processes, the bumps along the way, the way that other similar applications were handled, and ---

Mr. Phillips: Excuse me. I don't think that's what I said. I said, quite the contrary, we don't mind handling it in that general fashion to put it in the context of Wyda as an investment and the others generally -- or even the other biggies generally. It's when you get specific to another investment that we're entering into the private affairs of that investee.

The Vice-Chairman: All right. Let's do it this way, then.

The Chairman: Mr. Gillies, if you don't have any problem, I'm going to allow you to proceed, and counsel is here representing IDEA. If you have any concerns at any juncture, we will listen to them and make a decision on them. Okay?

The Vice-Chairman: Sure. Okay.

The Chairman: Please proceed.

Mr. Blakeley: I think we're going the right way. It's just when you ask the names.

The Vice-Chairman: Sure. Well, let's do it this way, then.

You had how many -- you made how many grants and equity investments in the last year of over, let's say, \$2 million?

Mr. Armstrong: The word 'grants' ---

Mr. Logan: These are not grants.

The Vice-Chairman: Pardon me. Not grants; equities.

Mr. Logan: These are investments.

The Vice-Chairman: How many investments of over two million in the last year?

Mr. Logan: Two million or more?

The Vice-Chairman: I think it was about five or six, wasn't it?

Mr. Logan: In the last year?

Mr. Cannon: As Mr. Macdonald stated yesterday,

Mr. Logan: In the last year, or ever since IDEA Corporation has been started?

The Vice-Chairman: Okay, let me ask you, Mr. Logan: On how many of the big ones that you dealt with would you have been contacted or queried during the course of the development of that investment by officials from the Ministry of Industry and Trade? Half of them?

Mr. Logan: No. On the large investments, I've done -- I can't think of any that I was queried by members of the Ministry.

The Vice-Chairman: You can't think of any that would have been queried in that way.

Mr. Logan: Most of -- that's correct.

The Vice-Chairman: Okay. What about from officials outside of the Ministry? Was it a common or rare occurrence, or did it ever happen, that you would have a call about one of your proposed investments from an official within this building, the Premier's Office, the Cabinet Office?

Mr. Logan: We have, from time to time, had calls about the progress of an investment: Where does it stand? Have we arrived at a decision? And those we viewed as information-seeking, and we supplied them. That would have happened on a few occasions.

In terms of reaching an investment decision, it was more often that the proponent would try to impress you with who he knew and the pressure he might be able to bring to bear. It was not common to have anybody from Queen's Park call and try to put the pressure on. It

tended to come more from the proponents.

The Vice-Chairman: When you -- going back to the memo, the September 9th memo again; Mr. Cannon, when you see a reference made in there that Peter Barnes had an interest in this particular investment, would you see that more as an interest from Peter Barnes in as much as he was the assistant deputy minister, or in as much as that he was a director of the IDEA Corporataion? Or would you differentiate in your own mind?

Mr. Cannon: I don't think I'd differentiate in my mind at all, quite frankly.

Mr. Vice-Chairman: Okay. I think that's all the questions I have, Mr. Chairman.

Mr. Chairman: Mr. Ward.

Mr. Ward: Mr. Chairman, a question to Mr. Logan with regards to, I guess, tabs 4. I'm sorry, I have to find it -- 4 and 7, in relation to both of those. With regards to the management team: Did you contact the University of Barelán, Tel Aviv, with regards to Mr. Dobzinski's qualifications?

Mr. Logan: Not that particular university. We did -- Mr. Parikh did phone the University of Bonn, because we had to contact the professor under who Mr. Dobzinski studied while he was posted in Germany.

Mr. Ward: Did you make it a practise to check all of the references of all of the individuals when applications came before IDEA Corporation.

Mr. Logan: Not all of the individuals on all of the applications, no.

Mr. Ward: The ones that you perceived to be the key players?

Mr. Logan: We would try and endeavour to check out the qualifications of the most important.

Mr. Ward: If we can turn to tab 7. When you're doing an assessment of the Wyda Systems proposal and you list their strengths -- meaning no disrespect to anybody, but the most crucial element, in terms of the strengths of the management staff, I take it, relate to the people whose names are mentioned: Tommy Hunter and Hodgkiss. Did you see them -- why are they listed and other

individuals are unnamed in terms of the quality of people?

Mr. Logan: I believe, well, I believe those were specified in particular because those were people that the Ontario Cad/Cam Centre had considered very strong, as they had looked into the Wyda's technology and done the technology assessment for ---

Mr. Ward: Is it fair to say that the stars of the management team are ---

Mr. Logan: I think, I think their job was primarily to look at the technology side of it and its ability to be taken into the marketplace. So I'm not sure they looked beyond ---

Mr. Ward: I think if we did go back to tab 5 I guess, more out of curiosity than anything else, because I'm sure that the memo intrigues all of us, and -- I'm trying to identify the talk of influence or pressures, Mr. Cannon. Was it perceived as pressure that somebody calls from the Ministry of Trade and Technology, or is it considered pressure when somebody calls that's involved directly with the board of directors?

Mr. Cannon: I'm sorry. Are you asking me?

Mr. Ward: Yes. I mean you elaborated that the person that called was a manager under Peter Barnes'; Peter Barnes is on the board of directors, and I'm just trying to establish whether or not you perceive that as pressure, because Peter Barnes happened to be located in the Ministry or because Peter Barnes happened to be a member of the board.

Mr. Cannon: Again, I think similar to Mr. Gillies' question, I would not differentiate between the two. Number one, I'm totally indifferent to the hat the person wears, and the net result is the same: If anyone called or calls me and in any way, shape or form, attempts to encourage my decision one way or the other, either go or no go, that's offside; and that person knows it immediately.

Mr. Ward: A board member or otherwise?

Mr. Cannon: I don't care who it is.

Mr. Ward: Okay. Mr. Blakeley, can you tell me

July 3, 1986

(Mr. Ward)

-- and maybe Bruno is the best one to be able to answer this, because he was involved with IDEA for a longer period of time -- did MITT always have a representative on the board? Was Peter Barnes there as a MITT rep.?

Mr. Maruzzo: He was a director -- my understanding was that he was a director representing the shareholders.

Mr. Ward: Which is MITT? And was it common practise always to have an MITT rep. on the board?

Mr. Maruzzo: From my recollection, Peter was on the board from day one.

Mr. Ward: From day one?

Mr. Maruzzo: Well, from my day one.

Mr. Ward: When was your day one?

Mr. Maruzzo: September '83.

Mr. Ward: September '83, and yet the list of board members shows that Peter Barnes was appointed April 5th, 1985. But he was on the board prior to that?

Mr. Logan: No, it's the sixth.

Mr. Maruzzo: I'll give you the annual reports. The annual reports state who the board members are as of the date of the annual report.

Mr. Ward: Peter Barnes was always a member of the board?

Mr. Maruzzo: From my recollection.

Mr. Ward: So when somebody called from Peter Barnes' office, that was viewed as political pressure, sometimes? Again I'm trying to gather the significance of the memo in tab 5.

Mr. Cannon: Are you asking me again?

Mr. Ward: I think Bruno.

Mr. Maruzzo: Obviously they are going to call

us to find out what's going on, but if someone from ---

Mr. Ward: That's not what I'm talking about. You know what I'm talking about.

Mr. Maruzzo: When somebody calls and says, "I think you should do this," I would personally feel that that was some pressure being applied.

Mr. Ward: Did you get those calls very often? Infrequently? Occasionally?

Mr. Maruzzo: I can't really say, because I probably wouldn't receive that kind of call.

Mr. Ward: Did you ever receive any?

Mr. Maruzzo: Certainly, I did. From various people in various government positions.

Mr. Ward: But Peter Barnes was perceived as being politically oriented?

Mr. Maruzzo: I guess, from my standpoint, I go back to Daryl's statement. I saw anybody associated with Queen's Park as being politically motivated.

Mr. Ward: Fair enough. So then the answer is yes, you viewed Peter Barnes as being politically motivated, and you had experience in getting calls from either Peter Barnes, or somebody in his office.

Mr. Maruzzo: And other -- on other proposals, you know they were referred or submitted by an MPP or his office. You know, we'd get a call from somebody in the MPP's office. Either to get information or perhaps to say how great the proposal was. That was not infrequent. Or if we turned somebody down, and they complained to their MPP, and we'd have to respond to that query.

Mr. Ward: Did you get calls from Anne Whelan-Griffin? Was she a frequent caller prior to the memo?

Mr. Maruzzo: Which memo?

Mr. Ward: I'm sorry, Daryl's. I'm not sure who wrote it. Daryl's memo. Was Anne Whelan-Griffin a caller on behalf of Peter Barnes over the course of the years since 1983?

Mr. Maruzzo: I spoke to her a number of times; but in no instances was she talking about a specific proposal.

Mr. Ward: All right then. That's all I have for now, Mr. Chairman.

Mr. Chairman: Thanks, Mr. Ward. If members have no strenuous objection, I'd like to ask one quick question I'm a little bit curious about, and that's for Mr. Logan. You talked about resumes, and you were talking about Mr. Caplan earlier and I notice in the original resume, the -- Mr. Caplan's involvement with PEC Financial Corporation is mentioned. And in the next effort from Mr. Cannon, it's also mentioned, and then in tab 9, the Venture Summary sponsored Daryl Logan. It isn't mentioned, as I read it, in the description of Mr. Caplan. And I take it that this summary is the one that is presented to the board -- is it ---

Mr. Logan: That is correct.

Mr. Chairman: --- for deliberation? Why would his involvement with that company have been mentioned in the two earlier submissions, and not in the one to the board?

Mr. Logan: I don't know, Mr. Chairman.

Mr. Chairman: You don't appreciate the significance of that -- or the possible significance -- of that omission?

Mr. Logan: No, I can't explain at this point in time, but Mr. Maruzzo just pointed out to me that in the presentation we made to the board of directors, his position at PEC was the very first item under his name. So ---

Mr. Chairman: It was on the slide presentation. I've been involved in many presentations where slides have been presented to the members, and they're there and then they're gone. I think that a more appropriate place for it would have been -- and I'm just expressing an opinion, in any event -- but, that may be pursued further.

Mr. Pope.

Mr. Pope: I thank you, Mr. Chairman.

Have you provided all documents that the IDEA Corporation has on this matter to council for the committee?

Mr. Logan: Yes.

Mr. Pope: Are there any documents that you have not produced on the basis of any claim of privilege or confidentiality other than what you've discussed with the counsel for the committee and the members of -- the one representative of each party?

Mr. Armstrong: Would you repeat that?

Mr. Pope: Is there any documents that you have objected to producing or not produced because you're claiming some confidentiality or some limit on production other than what you've privately shown through Mr. Blakeley to counsel for the commission and a representative of each party?

Mr. Armstrong: I don't think so. I mean we've shown counsel all the files and we've both been through them. I don't think there's anything else.

Mr. Pope: Is there anything that you have ever had in your possession that you no longer have in your possession?

Mr. Phillips: Particularly in context.

Mr. Logan: Well I am sure that during the course of our entire investigation ---

Mr. Phillips: That isn't the context. The context is -- I take that, since we got the letters, we haven't trashed anything.

Mr. Pope: Before you got the letter.

Mr. Phillips: Sure, there's lots of stuff that's done.

Mr. Pope: How come we don't have the agenda for the February meeting?

Mr. Armstrong: I'm not sure I can offer a specific reason, as I say we went through all the files

July 3, 1966

that were handed to us, as did the counsel to the committee. I don't remember seeing it, but I could have another look. It wasn't deliberately ---

Mr. Logan: I think probably, what would have happened here is that we would have produced the March and June ones, because those were the two meetings that had ended up being addressed.

Mr. Pope: No. I'm sorry; if you go back and review your documents, there is only one meeting that there is an agenda produced for. I'd like to know where the other agendas are, plus I'd like to know where the list is of further items to be considered as is referred to in the minutes of the February meeting. There is a reference specifically to a list, and it has not been produced.

Mr. Armstrong: But what meeting ---

Mr. Pope: At February.

Mr. Armstrong: At February 19th? If we have, I don't know.

Mr. Pope: But you agree that it is a rather important item?

Mr. Armstrong: Well, we can't say.

Mr. Pope: Well, I can say, based on the evidence you've already given. Mr. Kruger appeared in the February meeting and indicated to you that the IDEA Corporation was about to be wound up; and the agenda for that meeting hasn't been produced for this committee and after Mr. Kruger's announcement, there's discussion about the wide application. Was it on the agenda or not? Was it added after Kruger's comment? It's a rather significant omission.

Mr. Armstrong: It's your basic question of was Wyda on the February 19th agenda.

Mr. Pope: Agenda.

Mr. Armstrong: Okay.

Mr. Blakeley: It would have to be. Everything that was to be considered before that meeting is on the agenda. Every meeting has an agenda, and I'm sure it's

one and a half hour meeting.

Mr. Pope: Okay.

Mr. Logan: From -- and Mr. Macdonald ---

Mr. Pope: Oh, yes, of course.

Mr. Wildman**: Yes, I understood that Mr. Macdonald's part of your group. There is another set of questions I have to ask you, though, firstly, and perhaps wait for counsel. Each one of you, are you presently employed?

Mr. Blakeley: Do you want the answer now?

Mr. Phillips: You don't have to talk to me about that.

Mr. Blakeley: I am presently unemployed.

Mr. Logan: I have my own management consulting firm, so I consider myself self-employed.

Mr. Maruzzo: Unemployed.

Mr. Cannon: Same as Daryl.

Mr. Pope: Are you in the same company?

Mr. Phillips: Simon, don't you answer that.

Mr. Pope: You said that three times. Have any of you sought employment from the Ontario Government?

Mr. Blakeley: Not I.

Mr. Logan: Ah, sought employment, no, but we have Mr. MacKinnon at the ODC has asked both Mr. Cannon and myself if we would assist for a period of two to three weeks in helping his staff at the Ontario Development Corporation learn about the investments and the investment portfolio so that they can get up to speed and take over the management of that portfolio.

Mr. Pope: So two to three weeks.

Mr. Logan: Yes, he'd been talking in terms of a couple of weeks maybe full-time and then a couple of more weeks or three weeks or whatever on a part-time basis.

Mr. Pope: Anything beyond that?

Mr. Logan: Sorry.

Mr. Pope: It's all right it's okay.

Mr. Phillips: What do you mean? Do you mean employment?

Mr. Pope: Yes. Contract or direct.

Mr. Phillips: Yes. So it means consulting too.

Mr. Pope: Yes.

Mr. Phillips: The answer remains the same.

The Chairman: All right.

--- Short recess at 9:03 p.m.

--- Upon resuming at 9:05 p.m.

The Chairman: All set to go?

Mr. Cannon: Just to get clarification for the missed part of your question. Was your question, have we ever sought employment from the Government?

Mr. Pope: No. There's nothing more to it than this. I understand that you were employed by the IDEA Corporation, but you are no longer employed. What I am trying to ask is, since you are no longer employed, have you sought employment or have you been offered employment by the Ontario Government either by contract or directly?

Mr. Blakeley: You've changed your question, sir, because there's quite a big difference between seeking employment with the Government and being offered employment.

Mr. Pope: "Seeking" was my next question.

Mr. Blakeley: That was your first question. I answered that I was not seeking, I had not sought employment with the Government; I was offered employment with the Government.

Mr. Pope: Yes, okay. In what capacity?

Mr. Blakeley: In a consulting capacity for the Ontario Development Corporation.

Mr. Pope: In a consulting capacity.

Mr. Logan: Well, in addition, I'm not sure if this is -- well, let me give you the information. In addition to currently work full-time for the Ontario Development Corporation on a consulting basis for a couple of weeks and then part-time for two or three weeks thereafter, earlier this year we had some discussions, Mr. Cannon and myself, with the Ontario Development Corporation about setting up a joint company and that company potentially managing the portfolio after the closure of IDEA Corporation.

July 3, 1986

Mr. Pope: Yes, that's what I wanted to ask you. Is there anything else other than what you've said?

Mr. Logan: And that would be a contractual relationship between the company that we would initially hold and the Ontario Government.

Mr. Pope: And Mr. Cannon, the same thing goes for you?

Mr. Cannon: That's correct.

Mr. Pope: Okay.

Mr. Cannon: Just to clarify because I think it's important to respond the same as Daryl. He and I are, in effect, partners and we were partners before we came into IDEA Corporation. We don't have a common interest in a company per se; we each contract out for our own national companies, but when Daryl talks about us having discussions with David MacKinnon of ODC, it is one and the same, absolutely.

Mr. Pope: I understand.

Mr. Maruzzo: I have been offered a six-month consulting contract with ODC to help them set up their new, I was going to say IDEA Corporation, but Innovation Ontario.

Mr. Pope: In the context of those discussions, has there been any discussion with you by anybody or any suggestion to you by anybody about your testimony or evidence before this committee, individually? I will just go down the row.

Mr. Blakeley: None.

Mr. Logan: No.

Mr. Maruzzo: No.

Mr. Cannon: No.

Mr. Pope: Okay. I wanted to -- I think it's important to clear that up for a number of reasons. That's why I engaged in that line of questioning.

(Mr. Pope)

Now, Mr. Maruzzo, you said that you got various calls from time to time whilst you were with the IDEA Corporation, sometimes by members of Provincial Parliament, sometimes by Government officials. How often would that happen in a year?

Mr. Maruzzo: A half dozen, maybe a dozen times, maybe. It would depend on the file, the files that I was working on.

Mr. Pope: And, Mr. Logan, you said that from time to time you got calls with respect to progress reports?

Mr. Logan: That would be the nature. There was one existing investment we had where they were wanting us to invest more money and we were not interested in investing any more money and those people complained to the Premier's office about what a glorious company this was and it was a tragedy for the province that IDEA Corporation was too stupid to invest in their wonderful company.

Mr. Pope: You mean that is normal and you got a call from the Premier's office asking what is going on with this application ---

Mr. Logan: That is correct.

Mr. Pope: --- and you had given them the information?

Mr. Logan: That is correct. We suggested in this case that one of his people come down and talk to us and we had about a two hour meeting. We explained the whole thing to them and they said it makes sense to us and they went away and that was the last we heard of them.

Mr. Pope: And you got other calls from time to time asking for progress reports, or just information so they could answer questions?

Mr. Logan: Occasionally.

Mr. Pope: Can you tell me why then you dictated document number five?

Mr. Logan: It's the ---

Mr. Pope: That's your memo of October 16th, 1985, in that -- and I'll put my question in the context of the answer you just gave and the answer Mr. Maruzzo just gave. Why did you dictate this?

Mr. Logan: The kinds of pressure -- first of all, two things I guess -- the kinds of pressure that were being exerted here was not common.

Mr. Pope: You mean with respect to IDEA?

Mr. Logan: No. No. I'm talking about my understanding of the phone calls Mr. Cannon received. That was not simply seeking information and secondly the individual who was a principle of the company -- it was my understanding of those phone calls was that he was someone of perhaps more stature than some of the people who would typically ---

Mr. Pope: In the Premier's office?

Mr. Logan: No. No. I said this was not seeking information.

Mr. Pope: Did the Premier's office -- did you do a memo on the Premier's office call?

Mr. Logan: When we had phone calls for information, Mr. Pope, we did not view that as being unusual. These were not phone calls for information. That's the distinction I am trying to draw.

Mr. Pope: Did Wyda call, or did someone call you on behalf of Wyda, for more than information? Is that what you are saying?

Mr. Logan: No, I ---

Mr. Pope: Well then why is Wyda in this memo?

Mr. Logan: Because we were having experiences at one point where an applicant was telling Mr. Cannon, as it was related to me by Mr. Cannon, about his connections and the pressure he could bring to bear on IDEA Corporation should we not be willing to go along with an investment in his company.

Here was another company who obviously had good political connections as well and was doing the exact opposite thing.

Mr. Pope: But you didn't think to do a memo showing how the Premier's office was not doing what Cumberland Group did and was just seeking information?

Mr. Logan: I was comparing two proponents, Cumberland Group and Wyda.

Mr. Pope: Why these two? Why these two? Why not the Premier's office? Why not the other calls from other members of Provincial Parliament? Why not the other calls that Mr. Maruzzo got -- that you got with respect to progress reports? Why these two?

Mr. Polsinelli: They were proponents.

Mr. Pope: I beg you pardon?

Mr. Polsinelli: They were proponents. That is not what he just said.

Mr. Logan: They were calls for information.

Mr. Pope: Yes.

Mr. Logan: We viewed it as part of our responsibility should someone call for some information.

Mr. Pope: But Wyda didn't call for information.

Mr. Armstrong: Mr. Pope, there is a little confusion. The calls that Mr. Cannon received -- he said were not in connection to Wyda and Mr. Logan has said that is the contrast between the way ---

Mr. Pope: I'm sorry, counsel. Why is Wyda the comparison to the Cumberland Group?

Mr. Logan: I'll answer it. I was in that Wyda situation at that very moment in time. Mr. Cannon was going through a similiar situation and I was hearing about it over coffee and what not in the office. There appeared to be two proponents both of whom seemed to have good political connections. One was playing it one way, the other was playing it the other way.

Mr. Pope: And that was the first time you ever saw that?

Mr. Logan: At that point in time, yes.

Mr. Pope: Mr. Cannon, when were these calls from the Cumberland Group?

Mr. Cannon: They would be sometime before the final investment decision was made to not participate and

(Mr. Cannon)

therefore I would go back to the months I think of September and October. I don't have actual dates for you.

Mr. Pope: And this Wyda application was the only one you were dealing with in October?

Mr. Logan: No, we were dealing with dozens of applications.

Mr. Pope: Dealing with dozens of applications?

Mr. Logan: Right.

Mr. Pope: There were no phone calls from members of Provincial Parliament or other government ministry personnel with respect to the other applications?

Mr. Logan: Well, first of all, we're dealing with the two proponents, but at that point in time I do not recall, but I think I have said that I don't recall any proposal where I received influence from someone at Queen's Park.

Mr. Pope: But you just said that from time to time you got requests for progress.

Mr. Logan: Requests for information. I don't view that as being pressure and I think this afternoon in my statement I said there is a distinction between when someone calls and asks for some information on progress and when someone would call and suggest that we should make an investment.

Mr. Pope: You're not saying that Wyda, or anyone speaking on behalf of Wyda, ever called with respect to pressure?

Mr. Logan: That is correct and that's ---

Mr. Pope: And there were lots of other calls that were made to you with respect to progress and yet you chose to highlight the comparison between the Cumberland Group and Wyda?

Mr. Logan: The other calls -- I don't

(Mr. Logan)

understand what you are driving at.

July 3, 1986

Mr. Pope: Well, let me put it this way -- I put it to you that this memo is not a contrast, it is a comparison.

Mr. Logan: I totally disagree.

Mr. Pope: Well then, why was it done when you had so many other calls for information with respect to other applications, when Mr. Maruzzo was getting calls from members of Provincial Parliament and Government agencies with respect to applications, why these two, why these two uniquely are in this memo of October 16th? Isn't that to highlight the fact that Mr. Wilfred Caplan was involved in the wide application?

Mr. Logan: Only to the point that they were very expressly insuring, trying to do their best to insure that there would be no conflict in that case. I do not consider -- I have said a number of times now -- that anybody from Queen's Park, whether it be politician or civil servant, calling for information, there is anything wrong with that. What we do resent is when we get a call suggesting that we should make an investment when we believe it is our judgment to make an investment. We also don't appreciate proponents who suggest to us that if we do not make an investment, that they will contact and they will talk to their political friends and bring pressure to bear on us.

Mr. Pope: Let's talk about that. I think that's very important that you think it's acceptable for Wyda to say, by the way, our Vice-President -- which means an officer by anyone's terms -- our Vice-President, Wilfred Caplan, the spouse of a cabinet minister, but we won't use him to influence pressure, you don't think there's anything with that, being well-known throughout the IDEA Corporation, such as the Vice-President of an applicant in front of this board, the spouse of a cabinet minister, but don't worry about that. That's not political influence, even though we know it?

Mr. Logan: Well, Mr. Pope ---

Mr. Pope: We are following Mr. Paul-Marie Hebert's advice.

Mr. Logan: We're not discussing that. I can only tell you, Mr. Pope, that I judged at the time, at

July 3, 1986

(Mr. Logan)

that meeting of October 9th, when Mr. Dobzinski said that to me, and it was said sincerely; it was meant sincerely and I took it sincerely.

Mr. Pope: You highlighted the fact that Wilfred Caplan ---

Mr. Polsinelli: Stop fishing.

Mr. Pope: Why are you defending him?

Mr. Polsinelli: I'm not defending him. I'm listening to these people very clearly.

Mr. Pope: You highlighted the fact that Wilfred Caplan was involved in Wyda and was the spouse of a cabinet minister, yes or no?

Mr. Logan: It is highlighted in that memo.

Mr. Pope: Thank you.

The Chairman: Mr. Epp.

Mr. Epp: Isn't it true that potentially, with Mr. Caplan being involved, that potentially a lot of calls could have been made if he would have wanted to have them made and try to apply pressure that way?

Mr. Logan: If that's the case.

Mr. Epp: So by highlighting, by singling out these two examples, what you were doing was to show how circumspect one particular applicant was as opposed to another?

Mr. Logan: That's correct.

Mr. Epp: Would that applicant that was very circumspect in not applying pressure, not using any political clout that they may have had, would that be Wyda Corporation?

Mr. Logan: Yes, it is.

Mr. Epp: Thank you.

(Mr. Epp)

Mr. Blakeley, in preparing the agenda for the IDEA Corporation, who prepared the agenda?

Mr. Blakeley: You mean for the board meetings?

Mr. Epp: For the board meetings.

Mr. Blakeley: The Chairman, with the Secretary. He asked me for items I was to have on the agenda.

Mr. Epp: Would other members of the board or staff be able to add items to the agenda if they -- they would go to the Chairman and then ask the Chairman whether they could add items to the agenda?

Mr. Blakeley: Yes. He does that before each meeting. Is everybody in agreement with the agenda? And they have the opportunity to put any other matters on it.

Mr. Epp: So that during the course of the meeting that additional items could be added to the agenda?

Mr. Blakeley: Not in the course of the meeting. That sort of item would come up as "Any Other Business". It's always on the agenda, "New Business".

Mr. Epp: Which is common?

Mr. Blakeley: Which is common. That's when any item -- when any member of the board wants to bring up.

Mr. Epp: Have you ever been at a meeting where an item was not added at the beginning of the meeting in addition to the regular meeting but was added later on? Have you ever been to a meeting --

Mr. Blakeney: Of our board?

Mr. Epp: Yes. For instance, halfway through the meeting somebody would suggest, I have a new item I want to discuss with the board, or anything of that nature?

Mr. Blakeney: All the meetings I have attended,

(Mr. Blakeley)

and I have attended them all since I joined the company, I do not recall that happening.

Mr. Epp: Mr. Maruzzo, you've been with the IDEA Corporation for three years approximately?

Mr. Maruzzo: Almost three years, since September, '83.

Mr. Epp: Any have you ever attended any board meetings?

Mr. Maruzzo: Yes, I have.

Mr. Epp: How many? Approximately how many meetings do you have a year?

Mr. Maruzzo: We usually have one a month. I would attend the meeting if I was involved in a proposal, either to present information to the board, or as a support person if someone else was presenting the proposal.

Mr. Epp: You, as the manager ---

Mr. Maruzzo: A manager.

Mr. Epp: Okay, a manager -- would be familiar with the number of applications before the corporation; is that correct?

Mr. Maruzzo: Yes, that's correct.

Mr. Epp: You've been there for three years. You've indicated that you had calls from people within the government -- I think, to put it correctly, "from various people and various positions".

How many of those calls would you get a year? How many of those calls have you received within the last year?

Mr. Maruzzo: Maybe half a dozen or a dozen.

Mr. Epp: Within the last year?

Mr. Maruzzo: Yes.

Mr. Epp: How many of those calls would you have received the year before that?

Mr. Maruzzo: The same amount, I guess. I mean, that's a difficult question for me to answer.

Mr. Epp: Have you ever received a call from a Cabinet Minister?

Mr. Maruzzo: No, I don't think so.

Mr. Epp: Have you ever received a call from a Cabinet Minister's staff?

Mr. Maruzzo: Well, I guess I received a call from Mr. Peterson's office.

Mr. Epp: Mr. Peterson's office?

Mr. Maruzzo: Yes.

Mr. Epp: And that was the extent of it?

Mr. Maruzzo: Yes.

July 3, 1966

Mr. Epp: Have you ever received a call from
MPPs?

Mr. Maruzzo: I don't think so, not directly.

Mr. Epp: Have you never received a call from
Mr. Philip?

Mr. Maruzzo: Mr. Philip -- I don't think so.

Mr. Philip: You just don't associate them
necessarily.

Mr. Epp: I don't see the significance of this.

Mr. Wildman: It's been a long day.

Mr. Epp: Have you ever received a call from
MPPs?

Mr. Maruzzo: I don't think so.

Mr. Epp: You don't remember?

Mr. Maruzzo: No, I don't.

Mr. Epp: Do you return all your calls?

Mr. Maruzzo: Certainly not in the last six
months, no.

Mr. Epp: You haven't returned all your calls in
the last six months.

Mr. Maruzzo: No.

Mr. Epp: Okay. Thank you.

Thank you, Mr. Chairman.

The Chairman: Mr. Wildman?

Mr. Wildman: I just have a couple of short
questions.

Mr. Cannon, the call you received from the lady
who was on Mr. Barnes' staff -- or the two calls -- did
you think at the time that those calls resulted from
requests from the principal in the Cumberland Group for
assistance in persuading IDEA to invest?

Mr. Cannon: I really had no thoughts on that, other than Anne Whelan mentioned that she was calling on behalf of Peter Barnes.

Mr. Wildman: All right.

The other question that I have is for Mr. Logan with regard to this memo of October the 16th.

We've heard your differentiation -- and I think it's probably a legitimate one -- between a call about the status -- "What's happening with this?" "Have you talked to the people?" "When do you think the decision will be made?" -- a request for information, and not "political pressure".

Mr. Logan: That's correct.

Mr. Wildman: And a call where someone -- either a civil servant or a politician -- is actually saying, "We think you should approve this," as being political pressure.

So you made that differentiation, and you say that in this memo what you were attempting to do was to show that one proponent was acting in a very different way from the experience that your colleague had had with another proponent with regard to political pressure.

Mr. Logan: Yes.

Mr. Wildman: Be that as it may, don't you think the very fact that you draw to the attention of your colleagues the fact that Mr. Caplan "happens to be the husband of Elinor Caplan, not only a full Cabinet Minister in the Peterson government, but also a Secretary of the Cabinet", in itself might in fact influence the decision-making process with regard to the application of Wyda?

Mr. Logan: No, I did not think that, nor were they people that I had to convince at that point in time. I was far from making the decision whether we should invest myself at that point in time.

Mr. Wildman: I'm not trying to belabour this. All I'm trying to get at is: do you think it was better on your part to have identified the political connection than it might have been not to flag the political connection?

July 3, 1966

Mr. Logan: I was trying to contrast the two situations. I think in order to contrast it, I had to essentially explain what the -- give that prelude before I could contrast the situations.

Mr. Wildman: But Mr. Cannon did indicate earlier today that he was unaware of Mr. Caplan's relationship until he received that memo.

Mr. Logan: Which is why I had to explain who Mr. Caplan was; otherwise, he wouldn't have understood the difference.

Mr. Wildman: All right. But I'm trying to figure out what effect you figured it would have to identify Mr. Caplan, on your colleague.

Mr. Logan: I would suggest that, had I not identified who Mr. Caplan was to Mr. Cannon in that memo, he wouldn't have understood what I was trying to say in the memo.

Mr. Wildman: Oh, I fully understand that. But I'm wondering why you bothered.

My question is this: by identifying -- or I think your counsel used the term name-dropping -- by indicating who Wilfred Caplan was in order to be able to contrast the approach of Wyda and Cumberland Group, in effect you were identifying Wilfred Caplan and indicating that this person had a political connection. That in itself, do you not think, might have influenced the attitude of your colleagues and IDEA towards the Wyda application?

Mr. Logan: That was not my intent.

Mr. Wildman: Oh, I know that.

Mr. Logan: Just a minute. Let me finish. I have a two-part answer. That was not my intent, and, secondly, knowing Mr. Cannon's attitude -- which he has explained, I think, well to this Committee -- it certainly would have no impact on him whatsoever of the nature you're suggesting.

Mr. Wildman: All right. Thank you.

Mr. Wildman: All right. Thank you.

The Chairman: Mr. Wildman, you're finished?

Mr. Wildman: Yes.

The Chairman: All right.

Mr. Gillies?

The Vice-Chairman: Just two or three questions.

Mr. Blakeley, in the testimony that we went through yesterday you indicated that you were unaware, until reading press reports, that Mr. Caplan's retainer had been changed by Wyda from \$2,000 a month to \$8,000 a month. That is correct?

Mr. Blakeley: That is correct.

The Vice-Chairman: Mr. Cannon, were you aware prior to the press reports on June the 13th -- were you aware at any time that Mr. Caplan's financial arrangements with Wyda had changed, prior to the press reports coming out?

Mr. Cannon: I wasn't aware of any financial arrangement that he had with the company, period, until I saw the first press article, whenever that was.

The Vice-Chairman: All right.

I wonder if I could refer you gentlemen, back in the green binder again, to tab 23, page 21.

This is the draft minutes of the June 18th Board meeting, and I'm looking towards the bottom of the first paragraph again.

Now, Mr. Macdonald, when he was before us, indicated that a few of these handwritten notes, Mr. Blakeley, were yours, and I think we identified those and the context of them.

But, Mr. Blakeley, you did not -- I've located the sentence, and I'll read it. Mr. Blakeley said that: "IDEA was not aware that Mr. Caplan's monthly fee would go from \$2,000 to \$8,000 after IDEA provided funds to Wyda to assist Mr. Caplan to start his own business."

(The Vice-Chairman)

Now, the last part ---

Mr. Phillips: Excuse me. That's not what's written there. It's typed, some of it's crossed out, and in some cases wording is added in. If you're going to read stuff in, let's read the whole thing.

The Vice-Chairman: I'm reading it as it was typed.

Mr. Phillips: Then could you say that? Then could you read it to show the markings-in and the changes ---

The Vice-Chairman: I was just getting to that.

Mr. Phillips: Thank you very much.

The Vice-Chairman: Hang onto your hat there, counsel.

Now, the last part, starting with the words "to assist Mr. Caplan to start his own business", is stroked out, and there's also a line drawn from that into the line above, as you see.

Now, Mr. Blakeley has said he did not strike out that part of the sentence, nor draw the line; correct, sir?

Mr. Blakeley: That's right.

The Vice-Chairman: Right. You said also at the time, when we were trying to ascertain who may have, that you thought it may have been the secretary Laurie, or it may have been Mr. Cannon; is that correct?

Mr. Blakeley: That's right.

The Vice-Chairman: So my question simply is: Mr. Cannon, did you, in fact, strike that out or make that change to the draft minutes?

Mr. Cannon: No.

The Vice-Chairman: Okay.

Mr. Phillips: Now, can we, then, read the (Mr.

Phillips)

sentence with the part added in? Sorry to be so plodding, but ---

The Vice-Chairman: So you just want to hear the whole sentence with the written addition?

Mr. Phillips: Yes, please.

The Vice-Chairman: Sure. Mr. Blakeley said that: "At the time IDEA made the investment -- " -I believe it is; it's very faint " -- IDEA was not aware that Mr. Caplan's monthly fee would go from \$2,000 to \$8,000 after IDEA provided the funds to Wyda." And then the rest is stroked out.

Mr. Phillips: Thank you very much.

The Vice-Chairman: Okay.

Mr. Phillips: Sorry to be so ---

The Vice-Chairman: No, no. Quite all right.

Mr. Bell: We're now in litigation, counsel.

Mr. Vice-Chairman: I've never had the benefit or, I'm beginning to think, the curse of law school.

I guess we'll have to continue to try to ascertain who made that adjustment.

Mr. Phillips: Going back to what Mr. Armstrong said yesterday, there was, I guess, adopted here in our -- in the originals of which there are two sets, the arrow is obviously on a master that got photocopied, and therefore is apparent in both the sets -- the scratch-out and the writing and the square bracket are in pencil on one copy and not on the other.

The Vice-Chairman: Okay. Thank you.

Just one other question. Mr. Maruzzo, you caught my attention when you mentioned a phone call from Mr. Peterson's office. I just wondered if you could tell the Committee if the call from Mr. Peterson's office was with regard to any matter before this Committee?

Mr. Maruzzo: No, it was not.

The Vice-Chairman: It was not. It was something completely unrelated to Wyda and Mr. Caplan?

Mr. Maruzzo: That's correct. It was regarding another proposal that I was working on.

The Vice-Chairman: I'm attempting to ask you who made the call ---

Mr. Armstrong: That's irrelevant.

The Vice-Chairman: --- and I think your counsel is attempting to tell me.

Mr. Armstrong: I assure you it was totally unrelated to this matter.

The Vice-Chairman: Thank you, Mr. Chairman.

The Chairman: Mr. Pope?

Mr. Pope: Thank you.

Who made the call?

Mr. Armstrong: Do we want to re-discuss the relevance of that particular ---

Mr. Pope: I think the Committee members have to decide what's relevant.

Mr. Maruzzo: I can answer that. It was made by a staff member from Mr. Peterson's office, a girl by the name of Michi Kumori. She was inquiring about a proposal that we had turned down.

Mr. Phillips: Don't name it.

Mr. Maruzzo: No, no. I'm trying to get a timeframe here. It was four or five months ago, and it has nothing to do with this.

Mr. Pope: Was she upset that it had been turned down?

Mr. Maruzzo: No, she as just trying to gather information on our reasons.

Mr. Pope: A progress report?

Mr. Maruzzo: Well, it was more than a progress report. It was over, and she wanted to know why we turned it down.

Mr. Pope: Okay.

July 3, 1966

Mr. Maruzzo: And I did some digging around and reported back to her.

Mr. Pope: Okay.

Now, Mr. Logan, in memo number five, you indicated to this Committee that you were trying to show a contrast, how Wyda was playing down its association with Mr. Caplan compared to the Cumberland Group, and how it was trying to directly exert political influence and Wyda was not.

Can you explain to me how you get that interpretation based on your own Exhibits number 2, 4, 9, 10, 11 and 16 -- how Mr. Caplan's involvement was being played down?

Mr. Logan: Because in 2 and 4 and whatnot, you're talking about exhibits that show that he was mentioned as being the Vice-President of Finance.

Mr. Pope: He was part of the management team?

Mr. Logan: Right. It's important that any proponent before us had divulged who their management team is.

Mr. Pope: So he was played up as being part of the management team, not played down?

Mr. Logan: I don't view that as being played up. I would view that as being disclosed as a member of their management team.

Mr. Pope: So you knew Mr. Caplan was a member of the management team?

Mr. Logan: Yes.

Mr. Pope: Knew, at least by October, that he was the spouse of a Cabinet Minister?

Mr. Logan: I knew just prior to that October 9th meeting that he was the spouse of an Ontario Cabinet Minister.

Mr. Pope: And throughout your work and the documents that have been prepared by the IDEA Corporation, the documents presented to the Board, Mr.

(Mr. Pope)

Caplan's name remains there throughout.

Mr. Logan: Yes, that's correct.

Mr. Pope: You don't think that's influence?

Mr. Logan: No.

Mr. Pope: No? Why not?

Mr. Logan: I don't think we have any choice other than to explain who the management team is. That's the management team that was presented to us.

Mr. Pope: Yes. Did you have any discussions at any time with respect to your memo number five, or this application with anyone outside the IDEA Corporation?

Mr. Logan: I'm sorry?

Mr. Pope: I can break it up, if you want.

Mr. Logan: Could you?

Mr. Pope: Sure. Did you have any discussions with anyone outside of the IDEA Corporation with respect to memo number five, document number five, your memo?

Mr. Logan: In the last few days, probably one day last week, I had been given to understand that -- I believe it was while I was away on a vacation in June -- that this memo, the original of this memo, was brought to the attention of people such as Mr. Lavelle, Mr. Kruger, and Mr. MacKinnon, and I was given to understand that there had been a misinterpretation of what I was trying to say. And I believe it was one day last week, in Mr. MacKinnon's office at the ODC, where we were discussing -- the basic purpose of the meeting was to discuss our assisting them for a short period of time after IDEA closed in transition -- I pointed out to him that it disturbed me that this memo had been misinterpreted, that I wished someone had asked me for an interpretation, or asked me what I was trying to mean, if there was any confusion at all, because I thought it was very clear, what I was trying to say.

Mr. Pope: Who indicated to you that concern?

July 3, 1966

Mr. Logan: I believe it was Mr. Cannon who told me that he had understood there was some misinterpretation of it.

Mr. Pope: Okay. Who told you, Mr. Cannon, that there was some misinterpretation?

Mr. Cannon: Mr. MacKinnon.

Mr. Pope: Mr. MacKinnon?

Mr. Cannon: Yes.

Mr. Pope: Okay. And you transmitted that to Mr. Logan?

Mr. Cannon: That's correct.

Mr. Pope: Okay. Did anyone else tell you that this had been misinterpreted?

Mr. Logan: No. I brought it up personally with Mr. Blakeley myself.

Mr. Pope: Yes.

Mr. Logan: But no one else told me it had been misinterpreted.

Mr. Pope: What was Mr. MacKinnon's interpretation of the memo?

Mr. Logan: My understanding was that it was not he who had misinterpreted it.

Mr. Pope: Who did Mr. MacKinnon tell you had -- this is to Mr. Cannon now -- who did Mr. MacKinnon tell you had misinterpreted this memo?

Mr. Cannon: To the best of my recollection, he said that he was involved with others from MITT on the start-up of the investigation on Wyda. But I don't think he mentioned any specific names to me.

Mr. Pope: He mentioned MITT?

Mr. Cannon: Yes.

Mr. Pope: Okay. And what was the misinterpretation that you were informed of by Mr.

(Mr. Pope)

MacKinnon?

Mr. Cannon: What he told me was, that folks that read the memo that Daryl prepared, interpreted it to be that Wyda was imposing political pressure on IDEA Corporation.

Mr. Pope: Right. And since Mr. MacKinnon or MITT was interpreting that memo that way, you're not really shocked that perhaps some members of this Committee might do likewise?

Mr. Cannon: You're asking me?

Mr. Phillips: Let me just re-read it again.

Mr. Cannon: If I didn't have the benefit of chatting with Daryl about what he meant by this, certainly the first part of the memo would be confusing.

Mr. Pope: Yes. Now, Mr. Logan, did you explain what you meant by your memo to everybody in the IDEA Corporation so they wouldn't be as confused as the MITT was?

Mr. Logan: No, I only sent it to Mr. Cannon and Mr. Blakeley. And I was quite certain they would understand it, Mr. Cannon in particular, who had had this experience with this group.

Mr. Pope: Mr. Cannon, isn't it fair to say that you did have a discussion with Mr. MacKinnon about this memo, and therefore about evidence coming before this Committee?

Mr. Cannon: Did I have the discussion with Mr. MacKinnon ---

Mr. Pope: Yes.

Mr. Cannon: --- about ---

Mr. Pope: --- this memo ---

Mr. Cannon: Yes.

Mr. Pope: --- which is part of the presentation before this Committee?

Mr. Cannon: That's correct.

Mr. Pope: So you did have a discussion. When was that discussion?

Mr. Cannon: Well, that was during the time that Daryl was away, and I was up discussing with Mr. MacKinnon the possibility of Daryl and I staying on for some period of time to give him a hand and manage the portfolio.

Mr. Pope: Who else was involved in that discussion other than yourself and Mr. MacKinnon?

Mr. Cannon: Nobody.

Mr. Logan: I think when ---

Mr. Cannon: When I met with MacKinnon?

Mr. Logan: Oh.

Mr. Pope: You were away.

Mr. Cannon: Just David and myself.

Mr. Pope: Okay. Were there any other discussions that you were going to volunteer information about?

Mr. Logan: That's the only one, Mr. Pope, that

(Mr. Logan)

I raised, because it bothered me that it had been misinterpreted.

I'm not certain -- there was one other individual who was involved in the general meeting where we were discussing the other matter, that is, our helping the ODC for a few weeks thereafter. Now, I'm not sure if he was there when I specifically talked about this memo, because he had to leave fairly early on in the meeting.

Mr. Pope: Was there anyone else you had a discussion with concerning Memo Number Five, or a telephone conversation, or an indirect contact?

Mr. Logan: I mentioned to you that I discussed it with Mr. Blakeley.

Mr. Pope: Yes.

Mr. Logan: There may also have been some other people within the corporation who knew about it at that time and we discussed it sort of in the hallways over coffee.

Mr. Pope: Within the corporation.

Mr. Logan: Yes, within the corporation. I do not -- I cannot at this time recall, Mr. Pope.

Mr. Pope: Okay.

Mr. Logan: It's not too categorical. I'm trying my best.

Mr. Pope: I understand. Are you still a director of Wyda?

Mr. Logan: I believe as of yesterday I was replaced.

Mr. Phillips: Excuse me. Our firm is doing the administrative work on behalf of ODC.

Mr. Pope: Okay.

Mr. Phillips: And he's uncertain, because we're supposed to be doing it as of June 30th, but we've been somewhat preoccupied.

Mr. Pope: Okay.

Mr. Logan: That's correct. The letters were supposed to have been mailed out June 30th, and I was assisting the ODC and trying to give them a sense for the kinds of company portfolios so that they could appoint new directors.

Mr. Pope: Yes, I understand that.

Have you ever seen the minute book of Wyda?

Mr. Logan: I have not gone through it. It would have had to have been presented to our counsel at the time we were doing the closing, and so undoubtedly it would have been on a table or something like that.

Mr. Pope: But you never personally reviewed it?

Mr. Logan: No, I did not. I would have seen certain parts of it, perhaps, but ---

Mr. Pope: Can I ask counsel if they reviewed the minute book?

Mr. Phillips: Yes, we did.

Mr. Pope: Okay.

Tab 2, which is received on August 12, 1985 -- would you interpret trying to be -- on the cover page, the list of Management Resumes: Mr. Dobzinski as President and Chief Executive Officer; Mr. Alley as Vice-President; Mr. Talmi as Vice-President; Mr. Hunter as Vice-President; Mr. Caplan as Vice-President. Would you interpret that as meaning that they were officers of this company?

Mr. Logan: I would have interpreted that.

Mr. Pope: Yes. Do you know if, in fact, they are or were officers of the company at the time?

Mr. Phillips: We talked about it recently, so I can answer that because I advised these fellows very recently -- as in the last three days or whatever -- that they in fact -- that's a bad word; yes, I'll use it -- that they in fact are officers insofar as they've been held out as officers. But as far as the corporate minute

books go, it looks like they're not officers from the corporate stamp, which is not to say that they're not officers. What's an officer? If you relied on corporate minute books to decide whether or not a man was an officer, we're in serious trouble.

Mr. Pope: Well, I don't think you mean that in that sense, as a commercial lawyer. However, isn't it fair to say that any examination of the Wyda Corporation or the Companies Branch at the Ministry of Consumer and Commercial Relations would reveal that Mr. Dobzinski is the sole and only officer and director of this company?.

Mr. Phillips: That's correct, at the time.

Mr. Pope: So that there were no other officers or directors then or now?

Mr. Phillips: I can't speak about now. At the time of the closing ---

Mr. Pope: Let me suggest to you that it still is now.

Mr. Phillips: I can't comment on that. I haven't done a search. Have you done a search?

Mr. Pope: I have.

Mr. Phillips: Then maybe they didn't follow form.

Mr. Pope: Yes, which means it doesn't come into effect until it's been filed with the Companies Branch.

Mr. Phillips: I don't think there's a matter of law that comes into effect when the board appoints the officers.

Mr. Pope: Doesn't the Business Corporations Act provide that you become an officer and director of a corporation upon filing?

Mr. Phillips: No.

Mr. Pope: It doesn't?

Mr. Phillips: No. I'm weak on the laws, but I'd be inclined to think that it's the directors who appoint the officers, and it's the Corporations

Information Act that requires them to file the information.

Mr. Pope: Okay. Let me put it to you another way. On August the 12th of 1985 these people are held out as being officers of this corporation, and as yet they are not registered as officers or directors in the Companies Branch of the Ministry of Consumer and Commercial Relations. Isn't that a material misrepresentation of their roles?

Mr. Phillips: No, it's a significant glitch in the corporate records.

Mr. Pope: Did anyone do a search of this company? You're only investing three dollars. Did anyone search the company to see if these people, in effect, were officers and directors?

Mr. Phillips: Yes, we did.

Mr. Pope: When?

Mr. Phillips: Probably in late March, early April.

Mr. Pope: And what did you find?

Mr. Phillips: Something along the lines of what you said. These guys were not listed in the public register. In fact, when we searched the minute book, we discovered consistently that they too had not been appointed, that there was only one certainly officer, I think only one director as well and it was Avi Dobzinski.

Mr. Pope: Yes, Now --- yes, go ahead.

Mr. Phillips: At the same time -- please let me finish to complete that scenario. It is our view that if these guys were held out as officers, as they are, in a number of times we've suggested, that as a matter of practise, and frankly as a matter of law, using what is called the Inside Management Rule, they can be taken as officers and for all intents and purposes have the authority of officers, externally.

Mr. Pope: Okay, so your position is that at the time this deal closed for \$3 million, Mr. Caplan was an officer of the company?

Mr. Phillips: For practical purposes, that's correct.

Mr. Pope: Okay.

Mr. Phillips: That's not my position, that's my opinion; and frankly, that's the opinion I expressed to my client.

Mr. Pope: Okay. Can I ask anyone of your choice, what were your investigations with respect to -- I'm not referring to any specific document -- I just want

(Mr. Pope)

to go through the management team and you can use any document you'd like. With respect to that, I'll refer to Document No. 4. What were your investigations with respect to Mr. Dobzinski?

Mr. Logan: Dobzinski?

Mr. Pope: Yes.

Mr. Logan: I would be unable to tell you all of the -- if you're going to go through each of them -- but I know we can tell you all the investigations that occurred with all of these individuals. We did do some checking ourselves on the background and I would have discussed this, particularly with Mr. Parikh. We also had the Ontario Cad/Cam Centre's opinion, in particular on the technology side of the organization, and we also had Mr. Orr's perspective when he did his marketing review. So I can't tell you definitively what exactly we did with each one of those individuals.

Mr. Pope: Who can?

Mr. Logan: Who?

Mr. Pope: Who was responsible for doing this kind of basic research into the people you're dealing with?

Mr. Logan: It would have been done -- Bruno, did you do any of it?

Mr. Maruzzo: I checked into some of the technical people as did the CAD/CAM Centre and Joel Orr. Dr. Greg Hunter is a well-known individual in the area, is published. His qualifications are not questioned by anyone. He's well known.

Mr. Pope: I'm sorry. Could you expand a bit on that? What do you mean his qualifications are well known? From your personal knowledge, you did a background?

Mr. Maruzzo: I guess from my discussions with the people at the CAD/CAM Centre and I talked to Joel Orr. They were aware of Dr. Hunter and his work and he

(Mr. Maruzzo)

was highly respected. There is another fellow from York University who is the Chairman of the Mathematics Department, or former Chairman of the Mathematics Department.

Mr. Pope: What's his name? Sorry.

Mr. Logan: Walker.

Mr. Pope: Walker. Mr. Walker. Did you look into his credentials?

Mr. Logan: Not directly, I did not. The CAD/CAM Centre went down and spent a couple of days at Wyda, went through their technical, senior technical people, talked to some of the technical staff to get an idea if they knew what they were doing. Their report was very positive. They felt that they could carry through on the project.

Mr. Pope: Okay. Did CAD/CAM interview Mr. Talmi?

Mr. Logan: Yes, they did. If you refer to ---

Mr. Pope: Is that ?? Okay.

Mr. Logan: I believe where it says "Strengths" that was excerpted from the CAD/CAM report -- the first page, under "Strengths", all those people were talked to by the CAD/CAM Centre.

Mr. Pope: Okay, that's Talmi, Hunter, Hodgkiss and others. What about Mr. Ali?

Mr. Logan: I believe at that time Mr. Alley was no longer associated with the company. Is that right ---? Yes.

Mr. Pope: Okay. How about the president who you refer to in your notes as Abbey which means you must have had some knowledge of him. What were his credentials?

Mr. Logan: He also has a technical background and I believe the CAD/CAM people would have had extensive

(Mr. Logan)

discussions with him at the time.

Mr. Pope: What is your personal knowledge of him in terms of his previous business experience, any other projects that you are aware of that he was involved in?

Mr. Logan: His previous business experience in Canada was nil in that he had come to Canada to set up this company to do this. As I mentioned, we called the University of Bonn and we tried to get a reference on him there. We did not contact business people in Israel, or anything like that, to try to learn about his background. I think we had all been very impressed with what we saw of his abilities as an entrepreneurial driving businessman who could get things organized and get things done.

Mr. Pope: There was a previous program that you were involved in, SR --

Mr. Phillips: SRTC.

Mr. Logan: The initial financing ---

Mr. Phillips: There was a previous Israeli jet program.

Mr. Pope: I didn't know anything about it.

Mr. Logan: Talmi was head of Operations and Development.

Mr. Pope: Well, CAD/CAM did an analysis and you called Bonn with respect to all the technical people. Isn't it fair to say that the only person whom you didn't find any background information about was Mr. Caplan?

Mr. Logan: I think I said earlier I could not be certain that we did not get any background information but I am not aware of what ---

July 3, 1986

Mr. Pope: You don't have anything in the file, any notes analyzing Mr. Caplan's capacities or experiences, nothing in the material ---

Mr. Logan: There may be something in the material.

Mr. Phillips: If it had been, we would have popped it up.

Mr. Pope: So there is nothing. All we have is the documents in front of us that are in this exhibit book?

Mr. Logan: Relating to having Mr. Caplan's name on them.

Mr. Pope: So all we have is his resume, the fact that he's a Vice-President in Charge of Finance and Administration and your Memo Number Five on the file? That's the only information the board or the employees of the IDEA Corporation had with respect to Mr. Caplan? And no one did corporate searches ---

Mr. Logan: Corporate searches of what?

Mr. Phillips: Caplan's companies.

Mr. Pope: No one did any of that?

Mr. Phillips: That is correct.

Mr. Pope: Can you explain why? A \$3 million investment, this man is in charge of the financial affairs of the company.

Mr. Phillips: Well, I'll explain why from a legal standpoint. As part of the due diligence we customarily undertake in investments on behalf of IDEA, we would look into, as a matter of course, the company itself and any predecessor companies perhaps by way of amalgamation or previous businesses, and sometimes new companies if any develop out of old companies. We check those back because they are important from an investment standpoint, but at this stage it is customary with IDEA, the finance people are required to do, they are suitable to the whole program. And we never, as a rule, do personal corporate searches in this kind of investment

July 3, 1986

(Mr. Phillips)

for IDEA. It's not important.

Mr. Pope: It's not important that Mr. Caplan was involved in a \$23 million bankruptcy?

Mr. Phillips: I'd have to be convinced that it was important.

Mr. Pope: Are you serious?

Mr. Phillips: The fundamentals of this investment looked at from a lawyer's eyes in this affair is a technology investment.

Mr. Pope: No, it's a business investment, with respect. It's a business investment.

Mr. Phillips: Let's put a comment in. And a business requires -- and I'm not pre-empting the business people -- but I look at it from a lawyer's standpoint, we deal with the corporate searches, it comes down to the product and the marketing. Now the number-crunching in a fairly simple company isn't terrible difficult, as I understand it. The forecasts that were done, we understood, were done somewhat internally with IDEA and those are the fundamentals. The key guy is Dobzinski.

Mr. Pope: Yes.

Mr. Phillips: And I'd say we focus a little more closely, well, we focussed on him.

Mr. Pope: Now, Mr. Blakeley, did you not say last week to counsel for this committee, Mr. Epp, Mr. Philip and myself that you would not have approved payment of that \$8,000, that increase in fee from \$2,000 to \$8,000?

Mr. Blakeley: If I didn't qualify that, I should have by saying that, had it been considered a finder's fee, I didn't consider it a finder's fee.

Mr. Pope: Didn't you call it a finder's fee in our presence?

Mr. Blakeley: Well, if I did, I didn't mean it

(Mr. Blakeley)

but I think I tried to make a comparison between, or explain what a finder's fee was in my view.

Mr. Pope: Yes. Are you saying you would have approved the increase from \$2,000 to \$8,000 after the deal closed?

Mr. Blakeley: Yes.

Mr. Pope: You would have?

Mr. Blakeley: Yes.

Mr. Pope: Why?

Mr. Blakeley: Because I didn't think it was significant. My view of the whole thing, which is the same as Mr. Logan's, was that, if anything, he had been underpaid for the work he was doing prior to the increase.

Mr. Pope: Haven't you changed your position in the last week?

Mr. Blakeley: I don't think so.

The Chairman: Another question, Mr. Pope. We have another questioner now.

Mr. Pope: Okay. Isn't it a fact that Wyda is now in breach of its bringdown certificate? Isn't it a fact that the representations and warranty survive a closing by six years? Isn't that the last two lines of the bringdown certificate?

Mr. Phillips: If you will allow me to answer that. I think that -- I should say we focussed on this at one of the breaks and I specifically asked Daryl if we could interpret his approval or acquiescence to the increase in late May or whenever it was as being, in effect, a waiver, and of the outstanding warranty that was breached and, after some discussion and looking at it strictly from IDEA's standpoint, Daryl bring himself as a corporate officer of IDEA, me bring myself as corporate counsel to IDEA, came to the conclusion that, in effect,

(Mr. Phillips)

it was a waiver.

Mr. Pope: He is now a director of Wyda -- how can he waive on behalf of IDEA Corporation? And what's his authority -- by what resolution of the board of directors is his authority to do that?

The Chairman: You can respond and after we will move to Mr. Epp.

Mr. Phillips: I don't have a good answer to that.

The Chairman: Mr. Epp.

Mr. Epp: Mr. Chairman, how many more questioners have you got?

The Chairman: You are the last one, unless Mr. Pope wants to go back.

Mr. Epp: I will waive my -- we're prepared to, you know, because these gentlemen have been waiting a long time and I can get my answers later on.

The Chairman: Mr. Pope still has additional questions.

Mr. Epp: Yes. Go ahead. How long do you expect to be?

Mr. Pope: Ten minutes.

Mr. Epp: If I don't take my time are you still going to permit him to take another 10 minutes, Mr. Chairman?

The Chairman: Well, in my view that there's no limit on members asking questions, other than 20 minutes; if there's no other questioners Mr. Pope can maintain the floor.

Mr. Epp: Okay. Let me ask two or three questions.

First of all, with respect to corporate searches, Mr. Philip -- Phillips, I'm sorry ---

Mr. Phillips: It's okay.

July 3, 1986

Mr. Pope: --- just to go back to what you were talking before in replying to Mr. Pope, isn't it true that you only concentrate on the principle of the principal company and the principal that owns that company, with respect to searches?

Mr. Phillips: Yes, the former more than the (Mr. Phillips)

latter.

Mr. Epp: So in this case, Mr. Dobzinski would be the one that you would concentrate on as opposed to any one of the other officers there, or is it fair to say you'd be more concerned ---

Mr. Phillips: Right, more fairly we'd concentrate on the investee, that is, the corporate entity. Sometimes, if we were investigating the individual, it would certainly be more likely than not the principal, Mr. Dobzinski, for instance.

Mr. Epp: Yes.

I have a question for you, Mr. Blakeley.

With respect to the increase that Mr. Caplan took, from 2,000 to 8,000 per month, isn't it true that you have approved -- since the original application was put in -- isn't it true that there's another grant that's been approved to Wyda Corporation from IDEA Corporation, subsequent to you knowing that that increase went from 2,000 to 8,000 ---

Mr. Armstrong: One moment, please. The word "grant"; do you adopt the word "grant"?

(inaudible interruption)

Mr. Blakeley: June the 18th, at the board meeting of June the 18th.

Mr. Epp: So that the fact that it went from 2,000 to 8,000 earlier this year, had no -- despite the fact that you knew that -- had no bearing on you giving an additional -- or making an additional \$500,000 investment in Wyda Corporation?

Mr. Blakeley: Remember that by this time we also knew that the -- that Mr. Caplan's term of office, or employment by Wyda was coming to an end.

Mr. Logan: I think it may be part, and I said, the understanding of Mr. Blakeley and others at that point in time -- because it was as a result of newspaper articles -- I was the individual Mr. Dobzinski discussed it with, and I was in Vancouver on vacation at the time of the June 18th meeting and it was not until I returned from vacation I informed Mr. Blakeley that yes, I had had a discussion with Mr. Dobzinski along these lines, so that I indeed did know about it.

Mr. Epp: So you knew about it and it still didn't have any bearing on it?

Mr. Logan: That's correct.

Mr. Epp: Thank you.

The Chairman: Mr. Pope.

Mr. Pope: Thank you.

There was some concern during the discussions of this particular application about the outstanding debt of Wyda. Who owned that debt?

Mr. Logan: There was debts owing to three, at least corporations.

Mr. Pope: What were they? Who were they?

Mr. Logan: The three corporations were a company called NAS, which I believe is a subsidiary of National Semiconductor, and they may have also transferred this debt to a leasing company at this point in time but it was for the purpose of leasing a mainframe computer.

Mr. Pope: What was the leasing company's name? Perhaps counsel ---

Mr. Logan: Maybe counsel can look it up.

Mr. Phillips: National Advance Systems.

July 3, 1986

Mr. Pope: National Advance. Who else owned that debt?

Mr. Logan: There was debt owing to a company called Budgrow and debt owing to a company called Granco.

Mr. Pope: I'm sorry?

Mr. Logan: Granco. G-R-A-N-C-O-M.

Mr. Pope: C-O-M?

Mr. Logan: Yes. One was related to the purchase of development workstations and the other was related to the purchase of some development software.

Mr. Pope: How is that debt paid off?

Mr. Logan: My understanding is that that debt was paid off by Mr. Dobzinski and his family.

Mr. Pope: Was it discounted from 4.5 to approximately 3.5 and paid off?

Mr. Logan: That is correct.

Mr. Pope: Okay. Those documents were provided to you or you knew of this formal arrangement on closing?

Mr. Logan: Yes. That was the purpose -- we signed on April 12th.

Mr. Pope: Yes.

Mr. Logan: We wanted evidence that it would be either -- was already paid off or was to be paid off at that time before we would actually ---

Mr. Pope: And on closing you were satisfied that the documentation -- that, in fact, was correct?

Mr. Logan: That is correct. On the 18th we were given evidence that it occurred.

Mr. Phillips: Just to clarify it because if you study the record later on you'll find that there will be an inconsistency. These agreements, by the way, are

described in Schedule "C" to the Subscription Agreement. The Subscription Agreement requires that Dobzinski put in the money by way of equity and Wyda to pay off the debts. What in fact happened between the 12th and 18th was that Dobzinski went to New York, paid them off at the discounted rate with his own dough and -- but then to put it where it should have been by the 18th, he found more dough of about 3.5, put it into the company for stock and then the company immediately paid him the 3.5 so he got to the same place.

Mr. Pope: Oh ---

Mr. Phillips: I'm just trying to -- for further concerns that you might have.

Mr. Pope: No, I understand. What is happening to -- well, maybe I shouldn't ask that question. IDEA Corporation, what was its budget in the Spring of 1985?

Mr. Blakeley: Well, it was approximately \$30 million.

Mr. Pope: Who approved the budget?

Mr. Blakeley: The budget was approved by the Board of Directors.

Mr. Pope: Who in the government approved the budget?

Mr. Blakeley: It was never approved.

Mr. Pope: You were operating on an unapproved budget?

July 3, 1986

Mr. Blakeley: That is right. The budget and business plan were approved by the board of directors on May 22nd, and forwarded to the minister.

Mr. Pope: Yes. Do you know who approved ---

Mr. Blakeley: It was approved by the board of directors and immediately forwarded to the minister to be approved by Order of Council, which is normal process.

Mr. Pope: Do you know who approves ministry budgets in the government?

Mr. Blakeley: No.

Mr. Pope: Would you be surprised to know that it was the management board?

Mr. Blakeley: That wouldn't surprise me.

Mr. Pope: Okay. When did you run out of your \$30 million?

Mr. Blakeley: I think it should be important to note here that when the corporation was set up initially, that the government approved a total of \$109 million, and I'm not sure that additional annual budgets had to be approved as long as they were within that \$109 million.

Mr. Pope: You don't know if they were or if they were not?

Mr. Blakeley: No, I wasn't there.

Mr. Pope: Okay. Now 30 million and March '85 to March '86, is that correct?

Mr. Blakeley: That's correct.

Mr. Pope: Okay. Did you still have money left in October?l

Mr. Blakeley: Yes.

Mr. Pope: How much was left? Roughly, I mean don't ---

Mr. Blakeley: Of the initial 60 million that had been put in, there were three lots of twenty million each year put in, totalling 60 million. Of that 60 million, approximately 40 million was remaining as of

(Mr. Blakeley)

that time.

Mr. Pope: March of '85?

Mr. Blakeley: October.

Mr. Pope: October? You had 40 million left?

Mr. Blakeley: Yes. In the bank.

Mr. Pope: How many applications from computer companies does IDEA receive in 1985?

Mr. Blakeley: I think -- were not just in the computer business.

Mr. Pope: No. I understand that.

Mr. Blakeley: It's all technology.

Mr. Pope: I understand that.

Mr. Logan: There would have been many.

Mr. Pope: How many?

Mr. Maruzzo: We receive roughly three to five hundred a year.

Mr. Logan: Total applications.

Mr. Maruzzo: Total applications. I just want to wanted to put in context.

Mr. Pope: Yes, I understand.

Mr. Maruzzo: Of that, a fifth could easily be computer or computer-related applications.

Mr. Pope: How many were approved in 1985?

Mr. Maruzzo: How many? I guess ---

Mr. Pope: How many were approved in total in '85?

Mr. Blakeley: Oh, computer ---

Mr. Pope: Computer-related, total ---

Mr. Armstrong: Total, or computer?

Mr. Phillips: We don't know computer. Let's try total.

Mr. Blakeley: In the year '85-'86, that fiscal year, approximately ---

Mr. Logan: Twenty?

Mr. Blakeley: Try 40.

Mr. Pope: Investments?

Mr. Logan: Are you including entrepreneurial assistance programs?

Mr. Blakeley: No, no, no ---

Mr. Pope: No ---

Mr. Blakeley: No, 335 in total.

Mr. Pope: You say 20, you say 35. How much is it?

Mr. Blakeley: Well, it's ---

Mr. Logan: You're thinking summer service plans ---

Mr. Blakeley: There's been some since then, so ---

Mr. Logan: That's as close as you're going to get.

Mr. Blakeley: Thirty, or thirty-five.

Mr. Pope: Do you have an annual report as of March of '86?

Mr. Blakeley: No, not yet. It's not due until ---

Mr. Pope: Maybe I could put it another way

(Mr. Blakeley)

that time.

Mr. Pope: March of '85?

Mr. Blakeley: October.

Mr. Pope: October? You had 40 million left?

Mr. Blakeley: Yes. In the bank.

Mr. Pope: How many applications from computer companies does IDEA receive in 1985?

Mr. Blakeley: I think -- were not just in the computer business.

Mr. Pope: No. I understand that.

Mr. Blakeley: It's all technology.

Mr. Pope: I understand that.

Mr. Logan: There would have been many.

Mr. Pope: How many?

Mr. Maruzzo: We receive roughly three to five hundred a year.

Mr. Logan: Total applications.

Mr. Maruzzo: Total applications. I just want to wanted to put in context.

Mr. Pope: Yes, I understand.

Mr. Maruzzo: Of that, a fifth could easily be computer or computer-related applications.

Mr. Pope: How many were approved in 1985?

Mr. Maruzzo: How many? I guess ---

Mr. Pope: How many were approved in total in '85?

Mr. Blakeley: Oh, computer ---

Mr. Pope: Computer-related, total ---

Mr. Armstrong: Total, or computer?

Mr. Phillips: We don't know computer. Let's try total.

Mr. Blakeley: In the year '85-'86, that fiscal year, approximately ---

Mr. Logan: Twenty?

Mr. Blakeley: Try 40.

Mr. Pope: Investments?

Mr. Logan: Are you including entrepreneurial assistance programs?

Mr. Blakeley: No, no, no ---

Mr. Pope: No ---

Mr. Blakeley: No, 335 in total.

Mr. Pope: You say 20, you say 35. How much is it?

Mr. Blakeley: Well, it's ---

Mr. Logan: You're thinking summer service plans ---

Mr. Blakeley: There's been some since then, so ---

Mr. Logan: That's as close as you're going to get.

Mr. Blakeley: Thirty, or thirty-five.

Mr. Pope: Do you have an annual report as of March of '86?

Mr. Blakeley: No, not yet. It's not due until ---

Mr. Pope: Maybe I could put it another way

(Mr. Pope)

because there's no magic in any particular numbers. Is it fair to say that not everyone that applied got the grants, or the investments?

Mr. Logan: Yes, that's fair to say.

Mr. Pope: Yes. So there was not an investment system or a grant system that was readily available to every computer company in the province?

Mr. Logan: It -- they could apply, and we would judge it on its ---

Mr. Pope: But not everyone that did apply got them.

Mr. Logan: That's correct.

Mr. Pope: There was a discretion in the board.

Mr. Logan: There was -- most of the discretion was with the management.

Mr. Pope: But the board made the final decision as to who got approved and who didn't.

Mr. Logan: That's right. They would make the decision on approvals; they did not make decisions on denials.

Mr. Pope: So management made the decision on denials?

Mr. Logan: That's correct.

Mr. Pope: And many computer companies that may have applied for this grant were turned down. So it's not like OHIP's anyone that applies investment. It's not like OHIP; anyone that applied didn't get it.

Mr. Logan: That's correct.

Mr. Pope: There was discretion in the management and in the board of IDEA Corporation with respect to approvals and rejections.

Mr. Logan: That's correct.

July 3, 1986

Mr. Pope: And judgments made, and investment decisions made and money flowing on that basis.

Mr. Logan: Correct.

Mr. Pope: Okay. Now who got copies of the minutes of the IDEA Corporation?

Mr. Blakeley: Only the directors.

Mr. Pope: Anyone else?

Mr. Blakeley: Directors and senior officers. Directors and myself. I don't think you got one ---

Mr. Pope: Who else? Any ministers?

Mr. Phillips: Deputy ministers?

Mr. Blakeley: The representative of the ministry on the board, would, of course, have one.

Mr. Pope: Anyone else?

Mr. Blakeley: No.

Mr. Pope: How many investments were approved after the February meeting when Mr. Kruger said that you were going out of business?

Mr. Blakeley: I'd say about ten.

Mr. Pope: How many computer investment proposals were approved?

Mr. Maruzzo: Five, but that --- computer or computer related --

Mr. Pope: What was the largest -- sorry -- why does the largest --

Mr. Logan: I believe so. I believe Graham was done before February 19.

Mr. Pope: Yes, it was done before that. After that cutoff date, Wyda was the largest. Was it the largest by far?

Mr. Logan: Of the computer companies?

Mr. Pope: Yes? It was. Wasn't it?

Mr. Logan: Probably.

Mr. Pope: Yes. By far.

Mr. Maruzzo: It depends what you mean by far.
We did a million dollar deal.

Mr. Pope: This was a \$3 million deal.

Mr. Maruzzo: Yes.

Mr. Pope: I have some questions on confidential documents ---

Mr. Chairman: Mr. Wildman.

Mr. Wildman: Yes. At the February meeting, which was adjourned, Mr. Kruger was in attendance and he informed you, from the board of directors, that the corporation was to be wound up; and that, as I understand it, according to the minutes that we have, any further approvals after February 19th -- was that the date? -- would have to be approved by the Minister. Is that correct?

Mr. Blakeley: No.

Mr. Wildman: What did he say?

Mr. Blakeley: Mr. Kruger?

Mr. Wildman: Yes.

Mr. Blakeley: He said that we should continue; that any new proposals coming into the corporation had to be submitted to the Ministry.

July 3, 1986

Mr. Wildman: That is the point that I am getting at. The new proposal, in other words, a proposal that was made prior to February 19th but not approved by the Board of Directors would not have to go to the Ministry.

Mr. Blakeley: That is correct.

Mr. Wildman: So, in the case of Wyda, you could proceed as you did at your March meeting without it going to the Ministry. That is keeping in mind that it had come from the Ministry in the first place or had been referred.

Mr. Logan: It didn't matter where it came from ---

Mr. Wildman: Yes, all right. The other thing -- in terms of Mr. Cannon's comments earlier about his discussions with Mr. MacKinnon with regard to the possibility of the contract -- I believe it was a contract for your companies to assist ODC to manage the investment portfolio. Is that right?

Mr. Cannon: I'm not quite with you but keep going.

Mr. Wildman: Well, was that what your discussion was about? Were you talking to Mr. MacKinnon in the absence of Mr. Logan regarding the future of the possibility of a contract with ODC to assist them in developing the skills to manage the investment portfolio.

Mr. Cannon: Yes, well, while Daryl was away David MacKinnon and I discussed whether Daryl and I would be prepared to stay on for an interim period of time to assist whomever in getting that portfolio properly turned over.

Mr. Wildman: It was during that meeting that Mr. MacKinnon raised the concern with regard to what he thought was misinterpretation of the ---

Mr. Cannon: Daryl's famous memo.

Mr. Wildman: Or infamous if you want to use that term of October 16. Now, I don't mean any disrespect by this. I want to get the context -- was the context that in which Mr. MacKinnon raised that matter in any way in your understanding related to the -- whether or not a contract would be approved?

Mr. Cannon: I'm sorry. I'm confused.

Mr. Armstrong: Which contract are you referring to?

Mr. Wildman: The contract with ODC.

Mr. Cannon: Between Daryl and myself?

Mr. Wildman: Yes.

Mr. Cannon: No.

Mr. Wildman: In other words, it was an unrelated matter that was raised at the same meeting?

Mr. Cannon: Correct.

Mr. Wildman: Was that matter raised after you had finished discussing the possibility of your future with or contract with ODC or during that discussion?

Mr. Cannon: I think right at the outset.

Mr. Wildman: Oh, before you got into the other matter?

Mr. Cannon: Yes, I believe so.

Mr. Wildman: All right. And at that time was it raised in the context of the possibility that you might be asked questions about that memo or Mr. Logan might be asked questions about that memo by a committee such as this?

Mr. Cannon: No, I don't recall any discussion about that at all.

Mr. Wildman: There was no reference to the possibility of the Legislature or a committee of the Legislature investigating the situation?

Mr. Cannon: No. There wasn't. None that I recall.

Mr. Wildman: Thank you.

The Chairman: I'm afraid I have a couple of quick questions too. Mr. Logan, you mentioned the University of Bonn a couple of times in respect to Mr. Dobzinski but I am kind of curious about the way you responded the last time. You did get a positive response from the University of Bonn about Mr. Dobzinski, did you?

Mr. Logan: My recollection was there was two people

July 3, 1986

Mr. Parikh was trying to call. I believe he never did reach one of them. I believe he did reach the other. My recollection was the gentleman didn't have a vivid recollection of Mr. Dobzinski inasmuch as it been almost ten years. This is not terribly clear in my mind now -- but that the recollection was positive.

The Chairman: A vague recollection?

Mr. Logan: Yes.

The Chairman: You mentioned it a couple of times. That is adding some significance to it. Now you are indicating it was a vague recollection.

Mr. Phillips, you mentioned about the minute book for Wyda -- that your firm had the opportunity to look at it. Did you note any reference in the book to Mr. Caplan and the IDEA Corporation?

Mr. Phillips: I didn't look at it personally. I only read a review of deficiencies in the book and on that review the answer is no.

The Chairman: Then you haven't had an opportunity to

Mr. Phillips: Oh, sure, I've had an opportunity.

The Chairman: But you didn't feel it was relevant?

Mr. Phillips: No. We don't normally just flip through the minute book -- we do that on weekends.

The Chairman: Okay. I'm not going to pursue that any further.

Mr. Bell, do you want to jump in here at this point in reference to the additional materials?

Mr. Wildman: Mr. Chairman, there is one matter that I should asked earlier. It is very short.

Can you tell me the date of the meeting that you had with Mr. MacKinnon?

Mr. Cannon: Gee, I'm sorry. I can't. I know it was during the week that Daryl was out West.

Mr. Wildman: Approximately.

Mr. Pope: What week was that?

Mr. Logan: I left the evening of Thursday the 12th and I returned the evening of Monday, the 23rd.

Mr. Wildman: It was after June the 10th?

The Chairman: Before we go any further, before Mr. Bell starts, I think if it is our intention to continue we should have an unanimous consent.

(Agreed)

Well, we'll ask Mr. Bell to make some comments first.

P-19

STANDING COMMITTEE ON PUBLIC ACCOUNTS

ALLEGED CONFLICT OF INTEREST

Monday, July 7, 1986

Afternoon Sitting

Draft Transcript



July 7, 1966

MR. BELL: And, sir, did you ultimately report to Cabinet with certain recommendations as for IDEA?

MR. KRUGER: Yes, sir.

MR. BELL: And were those recommendations accepted by Cabinet?

MR. KRUGER: Yes. The recommendations -- there was a lot of consensus, which, in the process of putting those recommendations through, had to be gained, and the recommendations as Cabinet finally decided, I suppose, yes.

MR. BELL: All right. And to just try to accelerate matters, it's a matter of record before this committee, and certainly elsewhere, that on the 19th of February of this year, the Cabinet made certain decisions, and then made public those decisions as for IDEA; is that correct?

MR. KRUGER: That's correct.

MR. BELL: Were those decisions which were made public at that time substantially in accord with the recommendations that you made in your report to Cabinet?

MR. KRUGER: They were in accord with the recommendations that had gone through the policy and priorities with which I concurred, yes.

MR. BELL: And, sir, in substance, can you tell the Committee what the Cabinet decided that day as for IDEA?

MR. KRUGER: The Cabinet Committee on that day decided that the IDEA, as a corporate entity, would be wound down, and in its place a new entity would begin under the general control and administration of ODC -- a reconstructed ODC -- to be involved in the pre-venture capital area, and to complement the other business that was being performed by ODC.

MR. BELL: All right. And, sir, this review -- or the review that you undertook -- I understand it was with the assistance of certain members of your staff?

MR. KRUGER: Yes. In all these matters it's impossible for one person to do it, and as I've done this work previously in other governments, and also in the private sector; I would establish a team with a project manager, and there would be, from time to time, at least six people actually working on the team, vis-a-vis IDEA.

July 7, 1966

And, of course, there would be many meetings with MITT staff, Treasury staff, Management Board staff, et cetera.

MR. BELL: All right. Sir, I ask this question not only in the context of your particular involvement but the involvement of your staff. As part of the review process, did you or your staff have any discussions with or did you concern yourself with the matter of the Wyda Corporation in its context with IDEA?

MR. KRUGER: Wyda only came to my attention after the story actually broke within the media. Because at the time our review was done we were concentrating on those things that were already within the portfolio of IDEA and we were also consulting with some people who had been turned down so we could get a flavour of what the mandate of IDEA was. Wyda was not on the list.

MR. BELL: All right.

MR. KRUGER: I might add, nor was it on the list that went to Cabinet.

MR. BELL: Yes, sir. Thank you.

I wonder if the Clerk would place before you, sir, a brief of the Committee's documents which has certain other documents that I obtained from you in your office in Tab number P.

Would you turn, Mr. Kruger, to Tab number 1 under section P.

MR. KRUGER: Yes.

MR. BELL: That document being a minute of IDEA directors, a meeting of February 19th that you were good enough to provide to me.

Sir, I understand that represents the first occasion wherein the directors and staff of IDEA were informed of the Cabinet's decision earlier on that day.

MR. KRUGER: Yes, it was only at a later date -- I'm sorry. On Tab number 1 -- that's the 19th.

MR. BELL: That's correct.

MR. KRUGER: That's the day of the winddown.

MR. BELL: All right. And just for the chronology of that date, Cabinet made its decision in the morning.

MR. KRUGER: Yes.

MR. BELL: And you, at first opportunity, met with IDEA's directors and staff.

MR. KRUGER: Originally that meeting was supposed to be held the previous week, but I had consulted with Mr. Macdonald when I knew it was going to Cabinet that day and arranged to be in his office at 2:00 o'clock.

MR. BELL: Were you aware, sir, that day or subsequently, what IDEA's agenda for that directors' meeting had been?

MR. KRUGER: No. I was informed by Mr. Macdonald that they did have an agenda of some items which they wished to discuss, and I put it to him and asked him, did he want me to be on at the end of the meeting or at the beginning, and he thought that the staff would like to know what's going on, so he said he would vary his agenda and I would be on first.

I did not see the agenda. I was unaware of what they were going to discuss on that day.

MR. BELL: All right. And, sir, this is for your benefit. It's a matter of record before this Committee that the IDEA's investment in Wyda was on the agenda for the February 19th meeting and had to be rescheduled to March the 6th.

Just so your answer is complete on the record, I take it you were not aware of that fact?

MR. KRUGER: I was not aware of that fact, and only became aware of the Wyda fact some time after March.

MR. BELL: Okay. Could you turn, sir, to page 3 of that February 19th minute?

MR. KRUGER: Yes.

MR. BELL: The bottom paragraph, sir. It's recorded that you were asked about the status of the Board's ability to approve proposals, and that you confirmed that all proposals currently being reviewed by management may be

approved for investment by the Board of Directors. Any new proposals after February 19th must receive approval from the Minister.

Does that accord with what you were asked and what you indicated on that day?

MR. KRUGER: Not entirely. I indicated to the Board that any proposal that was already on stream, that was in the pipeline, should be processed in the normal manner because IDEA was a corporate entity and would remain a corporate entity until June 30th. There was to be no interference from anybody.

As far as the Minister, I mentioned that it had always been under MITT, it would be MITT that would be taking over the portfolio and whatever was in that portfolio as of June 30th, and the reference there to all new proposals after February 19th must receive the approval of the Minister, I indicated that anything new that came along that they had not yet seen at that point in time should be referred to MITT.

(PAGE 7 FOLLOWS)

MR. BELL: And just turning, sir, to page 4, the second paragraph: "The Board then asked Mr. Kruger to clarify its role."

I wonder if you might just review that for a moment and advise the Committee whether that accords with what you were asked and what you indicated in that regard.

MR. KRUGER: Yes, generally it was, yes. The only difference is that the Advisory Council -- there was some talk at that time of their being an advisory council, and now the Advisory Council is being replaced by ODC itself, the Board of ODC.

MR. BELL: Okay. This is a bit out of sequence chronologically, but I thought it important to review the 19th of February Minute first.

Mr. Kruger, could you turn to sub-Tab 3 of this section?

MR. POLSINELLI: Where are you?

MR. KRUGER: I'm sorry. I have Tab 2; I don't have a sub-Tab 3. I have a Q.

MR. BELL: I'm sorry, sir. If Mr. Arnott could give you these new materials ---

MR. KRUGER: I have just been handed drafts 3, 4 and 5 by a member of your Committee.

MR. BELL: I will wait, Mr. Bell, to make sure all Committee members have the new material at hand.

Okay. Has everybody got Tabs P 3, 4 and 5 now?

MR. EPP: I need mine.

THE CHAIRMAN: Okay, Mr. Epp. It's on its way.

Please carry on.

MR. BELL: Mr. Kruger, I'm going to ask you these questions respecting this February 6th letter from Mr. Blakeley in the context of the last paragraph of page 3 of the February 19th Minute, i.e., the Board's ability to approve the proposals.

July 7, 1986

MR. KRUGER: Yes.

MR. BELL: And first of all, you can confirm that Mr. Blakeley did write to you and you did receive his letter of February 6th on the date that's indicated on the top of that letter?

MR. KRUGER: Yes.

MR. BELL: All right. And he has referred, under item 1, to a projected expenditure -- at least, as far as you're concerned -- of \$18,100,000 for this year, and he indicates, "We've spent, or have committed to spend, about \$17,500,000."

First of all, can you comment on the origin of that \$18,100,000 figure?

MR. KRUGER: Yes. These were figures which we obtained from IDERA, and in one of the original drafts which he had seen, we had understood that there was -- the figure was \$18.1. Subsequently, we got the figure from them that it was \$17.5. The actual figure turned out to be \$17.2.

Within that figure, I should point out that as of the audited statement in March of 1985, there was a \$14 million figure of commitments yet to be made, and that is in the same category as the \$17.5. The \$14 million had become \$17.5 by the time we went -- or \$17.2, to be precise -- by the time we went to the Cabinet.

MR. BELL: All right. Now, he refers, sir, further down on this item 1 about what was intended for the February 19th meeting, an investment in the amount of \$1 million. Then he goes on to say: "There are further matters under active review requiring another \$2 to \$2.5 million."

Did you ever make any inquiries of Mr. Blakeley or others to determine what investments these particular amounts related to?

MR. KRUGER: No, I did not, because I would refer you later on to the \$31 million and the \$15 million in Biomedical. Back when I first began the review, there was a sum of money of \$15 million to go forward for Biomedical, and I was asked the question by Mr. Blakeley -- there was considerable pressure on us because there had been a \$20 million sum of money flowed to IDERA after the audited statement, and there was originally, when IDERA began, a

commitment to flow to them \$107 million.

Mr. Blakeley kept asking, and pointed out that this \$15 million for Biomed was only the start and would come much higher, and he said, "What's going to happen in the interim until your report is done?" I said, "You must live within your own means." They had \$10 million in an investment that was Middlesex Investment which they were trying to get out of, and I put it to him that with that and the \$50 million they had in their bank account, surely they would have enough money to carry on. And he indicated yes, they would.

So there was no constraint on them, except I suggested to them most strongly that they should look very closely at Biomed in the same way as they should get out of -- and this was the opinion of the Board -- that they should really start attempting to diversify themselves of the Middlefield, which was a syndicated fund.

MR. BELL: Well, do I take it, sir, that what you've just indicated to the Committee represents the answers that you gave to Mr. Blakeley of those questions that he poses at the end of this item 1?

MR. KRUGER: Yes, that's quite correct.

MR. BELL: And may I put it in my vernacular: your answers included something to the effect: "Whatever you do, you're not going to get any more money from us."

MR. KRUGER: Until such time as the mandate of IDEA was clear.

And I said another thing, too, if I might, in your vernacular: "You have enough money to carry on with anyway with everything that's in the pipeline."

MR. BELL: Okay. How did you communicate these matters to Mr. Blakeley, sir?

MR. KRUGER: By telephone.

MR. BELL: Could you recall when that telephone call occurred?

MR. KRUGER: Not particularly. I was receiving a lot of dialogue from Mr. Blakeley, constantly, and ---

MR. BELL: Can I be a little more -- can you recall

(Mr. Bell)

when it was, sir, in relation to March the 6th, 1986? Was it before or after, if you can recall?

MR. KRUGER: This February 6th?

MR. BELL: No, your discussions with Mr. Blakeley when you gave him these answers.

MR. KRUGER: Oh, that would have occurred almost immediately after.

MR. BELL: Fine. Thank you.

MR. KRUGER: If I didn't call Mr. Blakeley, he would have called me.

MR. BELL: All right. That's all I wanted to know.

MR. KRUGER: In fact, sir, now that you're looking at it, I might peripherally say, that was the first indication I had that two Ministers would not be at the Cabinet meeting. He knew more than I knew.

MR. BELL: Now, you've indicated already when you first heard the name Wyda used in any connection, and particularly in connection with IDEA -- I'm sorry; when was that again, sir?

MR. KRUGER: Well, the first time I heard of Wyda, the name, where it registered with me, was when I first heard about the problem that was raised in the Legislature.

MR. BELL: And that would be on or after June the 10th of this year?

MR. KRUGER: Yes.

MR. BELL: And would you turn to item number 2 in this material, Mr. Kruger?

MR. KRUGER: Yes. We're still on Tab 3?

MR. BELL: No, I'm sorry. We're still in part P, but we're now in sub-Tab 2.

MR. KRUGER: Sub-Tab 2.

MR. BELL: Back to the book.

MR. KRUGER: Right.

MR. BELL: This is another document that I obtained from you. Can you identify the handwriting at the bottom of the first page?

MR. KRUGER: The handwriting is mine.

MR. BELL: And when were these notes made, sir?

MR. KRUGER: The first note was made on March 21st, the second on March 26th. I really don't know the one with regard to Ian Macdonald. On my original, that's in pencil, so it was done at a different time, obviously, and the one with Webster was April 7th. That's after I'd spoken to Mr. Webster.

MR. BELL: All right. Can you tell the Committee how this March 21st note -- what the circumstances were that caused you to make this note?

MR. KRUGER: Yes. Soon after the meeting of March 6th, I had heard from -- and I just can't remember who -- but I'd heard that the husband of the Minister was involved

(Mr. Kruger)

in a file at IDER, and that this had been through the Board on March 6th.

Now, you will notice that present was Michael St. Amant. We always had someone -- during the time that I was doing my review, there was always some person from MITT who monitored these meetings. Mr. Michael St. Amant was the person I had taken down, and if you reference your previous minutes of the 19th, he was one of the group of people that I took down on that date, including the internal auditors of MITT.

So I got in touch with Mr. St. Amant and I asked him did he know, or was he present at the meeting, and he indicated he was, and he said, "Yes." And he confirmed that -- as I say here, "confirmed that Caplan's relationship to Caplan was noted when Daryl Logan gave a slide presentation." I asked him about that, and he said Daryl Logan had given a slide presentation, had noted that there was an involvement by Mr. Caplan, and that this was discussed by Mr. Macdonald, Chairman of the Board, and there was some discussion by the Board, and they considered it of no consequence -- of no concern to them -- and they continued on.

Mr. Logan did give in his presentation -- this is Mr. St. Amant informing me that Wilf Caplan was not involved in any of the actual negotiations with the Board, and that's something that Mr. Logan had said during the presentation.

On receipt of this information, I was -- and you'll notice, on March 26th, in discussion with Mr. Blakeley -- now, you must understand, these discussions with Mr. Blakeley -- this was not a prosecuting attorney or anything like that with Mr. Blakeley; I was talking about a lot of things with him, and I said to him, could he recall the meeting and the fact of this being identified. And he indicated yes, he had. And I asked him, "Have you ever met Mr. Caplan?" And I was surprised when he told me he hadn't, that this was done by Logan and people at that level. And he also indicated that there was no conflict.

So I asked him had he ever discussed anything with Mrs. Caplan, and he said no, he really didn't know Mrs. Caplan, and there was no discussion with anyone from Caplan's office.

Now, you must understand, this was just in a

by-the-way conversation in other things.

So there was no conflict, and the concern I had was: Was there any political interference? Because I had been asked a question -- which you'll notice in the minutes of the 19th -- by Mr. Cannon. Very pointed. That was a very difficult meeting where we had the Board, and all the staff were there, and Mr. Cannon asked me point blank. He said: "Was this a political decision?" And I said, "No, it was not. As far as I was concerned, it was an economic and an administrative decision on my part, and I was under no influence to give it one way or the other."

As a result of that, he said, "Well, is there going to be any political influence?" And I said, "No."

So my words, "They're in no conflict," was addressing the fact that there was no pressure from anyone politically.

I then had occasion to talk with Ian Macdonald -- I don't know the date -- and I was in discussion with Mr. Macdonald quite a bit, too, because we were in the process there with both these gentlemen talking about severances, if severances should apply. And he confirmed just what Mr. St. Amant had said.

Then, following that, I was at a meeting with the secretary of the Management Board, and on the way back from that meeting, the office of Mr. Webster is located just down the hall from the secretary of the Management Board, and he just happened to be there. So I walked in and I said, "Were you aware that there was some discussion at a meeting on March 6th that the husband of your Minister was involved in the file?" He said yes, he was totally aware of it, and he indicated to me that this was known by the Attorney General's department, everything had been cleared, and that there was no conflict.

So, as far as I was concerned, from that point on, it was a non-issue.

MR. BELL: Mr. Kruger, you've indicated that you made the notes on the date that they are indicated.

MR. KRUGER: As far as I can remember, yes.

MR. BELL: All right. Do I take it -- well, let me ask you: Did you or did you not, when having these discussions with the people noted on this page, discuss the name of the company that was going to receive the investment, i.e., Wyda?

MR. KRUGER: No, I did not. I didn't even know it was Wyda.

MR. BELL: Can you tell the Committee, Mr. Kruger -- item number 2 -- and I believe I photocopied it in the form that I obtained it from your office -- your notes are on the first page of the Minute.

MR. KRUGER: That's right.

MR. BELL: And if you go, then, to the second, third, fourth page, the specific part of the Minute that deals with Wyda is included. Do I take it you did not have those other pages when you made the notes?

MR. KRUGER: If I did have the other pages, they were of no significance to me, because I was concentrating on was there any political influence. And, as a matter of fact, I did note here, later on, that Caplan, C.G.A., was involved in it. I don't know when I would have noted that. I think this would have come to my attention after there was the discussion in the Legislature. I probably went back to take a look at it at that point in time.

MR. BELL: Are you referring, sir, to the particular markings at page 3 of this Minute, beside the paragraph starting, "The Management Team consists ..."?

MR. KRUGER: That's right, that's right.

MR. BELL: All right. Okay.

Before we get into events post-June the 10th and your involvement in them, sir, can I talk a bit a moment about, if I may call it, the wind-down period for Wyda; that is, from the date the Cabinet formed its decision on February the 19th?

MR. KRUGER: Perhaps you mean IDEA, not Wyda.

MR. BELL: IDEA, yes. Sorry. That's not the first time that's happened. February the 19th to June the 30th.

Was there, in fact, an involvement, first of all, by Cabinet in any expenditures involving IDEA between that time? Were any submissions made for Cabinet approval as to the expenditures of any monies?

MR. KRUGER: Well, of course, when the Cabinet document went forward, we had indicated what it would likely be. There was also the wind-down which went to Management Board, which is the process, and in that there was a whole series of monies. There was a list of all of the assets and all of the wind-down documents one would normally expect; there was also instructions in that as to how the disposal was to be done in accordance with a policy. And that went to Management Board, and that was approved by Management Board, and subsequently went to Cabinet as a Minute. That would have been approved by Management Board on June 17th.

MR. BELL: Were there any other submissions made to Management Board before that date, sir?

MR. KRUGER: Yes, there was one submission on a severance, which we had to -- that we were doing a little in advance of all of the other severances. There was that submission. There was also a statement which was made up by MITT as to what the likely funding would be required -- this was soon after the 19th -- as to what the likely funding would be required vis-a-vis MITT and the wind-down. So they would have been the three submissions.

The one submission that dealt with investments would have been my final submission on June 17th.

MR. BELL: All right. Did any ---

MR. KRUGER: And that was approved by Management Board.

MR. BELL: All right. Did any of those submissions to Management Board deal with, directly or indirectly, the investment by IDEA in Wyda?

MR. KRUGER: They would have dealt with,

indirectly, an investment by IDEA. That would have been unknown to anybody who was reading the report, though.

MR. BELL: That's my next question, sir.

MR. KRUGER: It was just a sum of money that dealt with all of the investments going forward, and it was a figure of \$17.1 million.

MR. BELL: Is that a report that's submitted to Management Board in written form or otherwise, sir?

MR. KRUGER: In written form.

MR. BELL: Is it from your office?

MR. KRUGER: It came -- well, there were a lot of people who worked on it. There were staff from my office, staff from MITT, staff from Treasury, staff from Management Board as well. We had to get the figures right.

MR. BELL: Who is the ---

MR. KRUGER: I signed it.

MR. BELL: Of the submission that dealt indirectly with the Wyda investment, ---

MR. KRUGER: Sir, when you say "dealt with it indirectly", it was so indirect, it was a sum of money.

MR. BELL: All right.

MR. KRUGER: It was an investment. It was a sum of money to cover all of the investments, to the best of their knowledge, of things that we were committed to on account of our IDEA, because, although the money had been advanced in the first stage, there were certain criteria that had to be met, and to that extent, Wyda was involved.

MR. BELL: I appreciate that, sir. You've also said that it was not capable of identification.

MR. KRUGER: That's right.

MR. BELL: But my question was: Was that probably the submission that went to Management Board on the 17th of June, as opposed to the others?

MR. KRUGER: That's right.

MR. BELL: And do I understand it that Mrs. Caplan was not on that date Chairman of the Management Board of Cabinet?

MR. KRUGER: That's correct.

MR. BELL: Now, in between the -- I guess the period relevant to this Committee's inquiry -- and that would be probably from August of 1985 to April the 17th, 1986, which was the date that IDER's investment in Wyda closed, in the corporate sense -- did you have any discussions with Mrs. Caplan concerning IDER?

MR. KRUGER: Oh, I would have, from time to time, had discussions with Mrs. Caplan, with the Treasurer and with other people, merely from the point of view of keeping them apprised of the various things that I was working on, and just to tell them on progress. And, in that context, I would have. I had never discussed any particular file with Mrs. Caplan. I had discussed -- this is vis-a-vis IDER -- I had discussed some of the severances of some of the people, because some of them might well end up in court cases, and she should be aware of that. After all, she was also in charge of the Civil Service Commission.

July 7, 1986

MR. BELL: My next question was, sir -- and you've anticipated it -- did any of those discussions include any reference to Wyda?

MR. KRUGER: None.

MR. BELL: The matter of the submissions that were, again, made to Management Board respecting IDEA -- this is in the wind-down phase -- did IDEA provide to you some of the information or the material that was necessary for the purpose of the report to Management Board?

MR. KRUGER: No, it was just a figure. We were interested in the end figure and interested in the money. The decision to wind down was there. My concern was to make sure there were sufficient funds available for all of the things that we had to do in the wind-down phase.

MR. BELL: All right. Thank you, sir.

Now, the last item: May I ask you about your involvement with this matter from June the 10th onward?

MR. KRUGER: Yes.

MR. BELL: I should say, sir, we've heard from Mr. Carmen that, I believe, on June the 10th, the Premier directed him to organize an investigative team, so-called, and that you had been named by Mr. Carmen as one of the members of that team. I don't have to ask you about that. Can you just tell us, sir, what your involvement was with that team leading to, I guess, the events of June the 16th?

MR. KRUGER: Right. Chronologically, let me take you through it. On Tuesday, June 10th, I had received a call from Mr. Lavelle to the effect that some question had risen in the House, and we were to meet with Mr. Talmin later that evening, and could I come around and speak with him. This is June 10th, Tuesday.

So I went around, and there was Mr. Lavelle, there was Mr. MacKinnon and myself, and we wanted -- the question was Graham Software, I believe, and also Wyda. And they asked what I knew about them, and I said I really knew nothing about them, and they said, "Well, you better come along, because you certainly know something about IDEA, and we're in the wind-down phase."

So we went over and we met with Mr. Talmin. Now, there was someone else at that meeting. Quite

frankly, I don't know who the person was; they didn't say anything, so they didn't register with me.

But it was decided as a result of that that, as the information and knowledge within the files was contained within MITT, and particularly with Mr. MacKinnon, that he would go back and try and draft up some type of a statement that we could meet the next morning at around 9:00. My task was to try and give some background as to IDER.

We met -- I was late for the meeting; it was between 9:00 and 9:30; I got there a little bit late -- and there was Mr. Lavelle, there was Mr. MacKinnon, there was Mr. St. Amant, and there was Mr. Wright from the Attorney-General's department. And they started into some discussion as to the Wyda file. It became fairly obvious that we didn't know too much about it, but there was some synopsis that Mr. MacKinnon had, and it was decided, well, let's get the file.

So I believe it was Mr. MacKinnon who called through to Harold Blakeley to bring the Wyda file down with him so we could at least take a look at it. And that was the first occasion that I actually saw the Wyda file, and I later learned I didn't see the complete file. It was some file that Mr. Blakeley had that -- I didn't see the final papers.

Of course, in your document here, I find there's a lot of material that I've never seen.

MR. BELL: Just for the record, sir, you're referring to the documents that IDER Corporation filed with this Committee.

MR. KRUGER: That's right.

Following our meeting, we then went between 12:00 and 12:30 to the Committee room that abuts the Premier's Office to try and draft up a statement. The meeting was coordinated by Mr. Carmen; he obviously had the responsibility for the coordination of it. There was Mr. Carmen, there was Herschel, Mr. Ezrin, Mr. Zisis, David MacKinnon, Pat Lavelle, Mr. Wright from the Attorney-General's Office, there was myself. I recall I'd taken the files; I was the person who took the files over. Mr. Webster came in; it seems to me he came in somewhat late. And I was told then we had a deadline of 2:00 to make up a statement.

Well, we all contributed whatever we could to this, and I left the meeting at somewhere around 2:00, and I was very surprised to learn later that day that the Premier had actually made a statement in the House.

So on June 12th, on the morning of June 12th, following the statement, I had heard -- and I cannot remember the source -- that Mrs. Caplan was a little upset that the statement did not refer to an affidavit. So I called Mrs. Caplan -- she was in the Constituency Office -- just to ask about -- I think I first heard it from Mr. Webster -- I'm not sure -- that there was an affidavit. And she confirmed to me that there was an affidavit.

Well, I hadn't seen any affidavit, and it seemed to have great significance, so I called down to Harold Blakeley, and I said, "Is there such a document?" And he said, "Oh, yes, that'll be in the closing documents files." And I do find it, for the record, within your Tab that you've given me ---

MR. BELL: Number 16, sir?

MR. KRUGER: Yes, and it was not, in my view, an affidavit; it was strictly an acknowledgement. It's not what I've grown to understand an affidavit to be. But, however, it was a very valid document. It was an acknowledgement by Mr. Caplan ---

MR. BELL: Mr. Kruger, can I just interrupt you for a moment? Could you indicate to the Committee what Mrs. Caplan said about this document in your telephone conversation?

MR. KRUGER: Very little. She just said that it existed and that it was an affidavit; she referred to it as an affidavit, and she thought it was significant. The fact she thought it was significant, I had not seen it, obviously it's something I should see. And that's the reason for the call. It was a very friendly call.

Then I read, on June 13th, the statement in The Sun, a column by Lorrie Greenberg. At that time, I don't think I'd received a copy of that, so I asked again to have it sent down by cab, and it was sent down by cab.

I did one other thing on that date. You must remember we were processing this final document for the Management Board, and in there I became quite concerned that, although Mrs. Caplan would not be able to identify anything to do with Wyda, there was, within the \$17.1

million of investments, the possibility that it was there, and although indirect as it might be, it could cause somewhat of a problem now that this matter had surfaced.

So I spoke to the Secretary of the Management Board, and I said, "At the appropriate time that you're doing your normal briefing with Mrs. Caplan, you should point out to Mrs. Caplan that this exists." And it had been my intention to call Mrs. Caplan to alert her as well, but in the meantime, on the Monday, she resigned. So it no longer became an issue, and it was the Treasurer who then took the report forward.

MR. BELL: All Right.

Sir, you are probably aware now, and there is another exhibit before this Committee which was reviewed with the IDEA corporation people; it is specifically a letter from Mr. Caplan to Wyda dated April the 14th, 1986.

I would ask the Clerk to help you. That is found in tab I of the material, page 13.

MR. KRUGER: I thought it was also in ---

MR. BELL: No, it is not in the IDEA material, sir. We will help you find that.

I will give you an opportunity, sir, just to review that before I ask you any questions.

MR. POPE: While he is doing that, can I raise a point of privilege?

THE VICE-CHAIRMAN: A point of privilege, Mr. Pope.

MR. POPE: Not respect to Mr. Kruger. Sorry, it has nothing to do with your appearance.

MR. WILDMAN: If this is a procedural matter we did set out a time limit.

THE VICE-CHAIRMAN: I recognize that; that a point of privilege or order takes precedence over any business of the Committee.

MR. POPE: My point of privilege relates to the documentation that was given to the members of the Committee by IDEA Corporation, specifically tab 17. Tab 17, schedule E. There is a deletion of item number 3.

MR. BELL: Schedule E?

MR. POPE: Schedule E has a deletion of point number 3. There is a deletion of item number 3.

My point of privilege is that this information was withheld by whose authority I know not from the members of this Committee at a time when we were considering tab 5, which is the meaning of the reference about political influence. And there is the deletion of the name which is subsequently identified as "Cumberland" in tab 5. It turns out that schedule E was revealed to the members of the

(Mr. Pope)

Committee last Thursday at midnight; that schedule E, item number 3, happens to link Wyda with the Cumberland Group.

MR. POLSINELLI: It came out with the evidence.

MR. POPE: No it did not.

MR. POLSINELLI: Yes it did.

MR. POPE: No it did not.

MR. EPP: No, it came out last week or sometime before that.

MR. WILDMAN: No, no, no, the Cumberland Group.

THE VICE-CHAIRMAN: Order.

MR. POPE: My recollection is that the information and schedule E specifically refers to a contract, a material contract in the closing, between Cumberland Investment Group and Wyda and Mr. Dobzinski for 10 per cent of the total equity of the company. That was the link between the Cumberland Group and Wyda that was so vehemently denied by the author of memo number 5.

When I asked who the principals of the Cumberland Investment Group were we were told that it was two individuals, and it turns out that one of those individuals happened to be the president and the director of Wyda Corporation; and that the document show that.

THE VICE-CHAIRMAN: I am sorry. By the president do you mean Mr. Dobzinski or ---

MR. POPE: No.

UNIDENTIFIED SPEAKER: That is the president of the corporation.

MR. POPE: And he was in the corporate return with respect to Wyda Corporation as an officer and a director of the company, and the other one was Mr. Leo Gray. And I think that this Committee had better address its mind to the withholding of this kind of information from the documents that we are getting.

THE VICE-CHAIRMAN: Let's have some brief

(The Vice-Chairman)

discussion of the point and get back to Mr. Kruger's testimony.

Mr. Bell, did you have something?

MR. BELL: Well, I think if I may make a suggestion. As with the reasons for the deletion of anything that were contained in the IDEA documents, Committee members, you know that process. There was a formula, a test, which is on the record right at the outset of the IDEA people, and may I suggest something: the Committee may want to hear in some way from counsel to IDEA as for the reasons for the deletion of that part of schedule E in the context of the formula; and then once that is done the Committee may wish to, before it terminates its proceedings, to determine whether and to what extent additional information should be provided, rather than to -- I don't think Mr. Pope is intending that this matter be extensively dealt with right now. I think he wanted to raise it at the first opportunity, and I don't think I could add anything.

THE VICE-CHAIRMAN: I don't think we want to get into this in depth now. I will entertain a brief comment from Mr. Wildman, one from Mr. Ward, and then we will move on.

MR. WILDMAN: Mr. Chairman, as I indicated to you earlier, I did have a question, a matter that I wished to raise on a procedural matter. It was in regard to this very matter that has been raised as a point of privilege by Mr. Pope. After reflection on the evidence that we heard last week I was very concerned that during extensive questioning with regard to what became known as the famous memo before this Committee, the memo by Mr. Logan in which he compared Wyda to the Cumberland Group. We were told a number of times before the Committee that that was just almost a random choice of two companies that happened to have political connections and that, and showing a contrast between two different companies. At no time did IDEA ever indicate that there was any connection between Cumberland and Wyda of the sort that it became apparent when we had the in-camera session on Thursday night. In fact, I am very concerned about the evidence being provided to us by IDEA as not forthrightly, it appears, indicating that there was indeed a very significant connection in terms of financial obligations and perhaps in terms of personnel. I understand there was a gentleman's name, a Mr. Greenberg, who apparently was, is an officer of

(Mr. Wildman)

Cumberland group who was previously an officer of the Wyda. That is a significant connection in my view; and it appears that perhaps the memo that was of such great concern to members of the Committee was not just a matter raised for contrast but in fact was, may have been a memo, an internal memo that was written because there was in fact a significant connection between Cumberland and Wyda.

THE VICE-CHAIRMAN: All right.

MR. WILDMAN: And I think that that should have been attested to by IDEA and the matter should have been dealt with by IDEA when they appeared before the Committee.

THE VICE-CHAIRMAN: Okay. I want to hear from Mr. Ward and Mr. Bell, and then we have got to move along. We have an obligation to hear Mr. Kruger's testimony.

MR. WARD: Just very briefly on the point of privilege, the one thing I want to say is you will recall when we first had our discussion on tab 5 the reference to the company name was deleted and there was some concern expressed at that time, and I think what Committee members have to bear in mind is that tab 5 and tab 17 were submitted at the same time and that the deletions were consistent. The Committee in its wisdom and discussion as the hearing proceeded revealed the name and the reference and I don't think the information was withheld from members of the Committee or was unknown to them after our discussion on Thursday night. And if it seems appropriate to include it, I don't see what the big deal is.

MR. BELL: Let's get something straight as a matter of record. Nothing was withheld in the context of what has been discussed this afternoon -- from this committee or its counsel by IDEA. Quite the contrary. The only thing that has happened is that in terms of the documents that were filed with this committee as part of its public record there were certain deletions. There is a formula for those deletions which we'll all find if we look to the beginning of IDEA's testimony. They have to do with economic, financial; in other words, don't let this company lose whatever competitive edge it has in the context of economic, technical secrets, et cetera.

You'll all recall the discussions that we had as for why the particular name was deleted in five and whether it met that formula and it turned out, as the IDEA people came back after they consulted with their counsel in the hall, that perhaps it didn't reach the formula. I think if there is to be any comment, it is the comment of the fact that this matter was prepared with the tremendous assistance by IDEA and its legal counsel in a very short period of time and I don't want this record to indicate, as far as I am concerned, that IDEA has not been forthcoming. It has been forthcoming. The question is, in my view, is what is the extent of the public record and that is another question for consideration. That is why I suggested that IDEA Corporation's counsel should be invited to address the committee, in written form or otherwise, as for how the matters that Mr. Pope raised in Schedule E came within the formula for private consideration if you will.

MR. WILDMAN: Mr. Chairman, with respect to Council -- I don't want to prolong this, but it is more than what Mr. Bell has just indicated. The fact is that while IDEA and the counsel for IDEA may, in fact, and I don't dispute that they were forthcoming -- they provided us with a lot of material very quickly, but what they may have felt met the formula is not in dispute here. I don't think anyone on the committee is in any way suggesting that technical information or financial information that would hurt the competitiveness -- the company should be made public. That is not what we are suggesting. What we are concerned about, at least what I am concerned about, is the way that Mr. Logan, particularly, characterized a memo which showed a connection between Cumberland Group and Wyda as simply a contrast when, in fact, it appears that it was a comparison, not a contrast, and that there was a relationship between the two companies, and at no time did he make that clear to us before the committee.

THE VICE-CHAIRMAN: Okay. Order, order. I am going to direct now that we return to the matter before us and the (The Vice-Chairman)

witness before us. At such time as we are finished interviewing Mr. Kruger we will return to this item of business, but I think in fairness the committee should systematically address the matter that is before us.

Now, Mr. Kruger, before all that, you were going to refer to Tab 1, Page 13, the letter from Mr. Caplan to Mr. Dobzinski.

MR. KRUGER: I've certainly had plenty of time to review it.

THE VICE-CHAIRMAN: Thank you. Let's proceed from that point.

MR. BELL: You'll have it memorized.

Sir, can you tell the committee when the first time this letter or its contents came to your attention?

MR. KRUGER: Well, this is the first time I have seen the letter as of now. The contents, or presumably the contents of it, would have occurred on, I guess that was part of the Lorrie Goldstein (sic) column.

MR. BELL: Did you have any discussions with either Mr. or Mrs. Caplan concerning that letter and its contents?

MR. KRUGER: No, sir. As soon as it became evident that this would be before the Public Accounts Committee and a quasi-judicial setting such as this, I did not in any way discuss my evidence with anybody.

MR. BELL: No, no. That wasn't the context -- even before this you mentioned, sir, that you read it, I think, on the 13th of June ---

MR. KRUGER: Yes.

MR. BELL: --- Mrs. Caplan resigned on the 16th. I guess my question was really, did you ---

MR. KRUGER: I have not been in contact with Mrs. Caplan since June 13th.

MR. BELL: All right, that is fine. As far as you know before the -- no, no, scratch that. One moment, Mr. Chairman.

Just to complete, Mr. Kruger, a review of the documents that have been placed before the committee as emanating from your files, could you turn to Tab 4? This is ---

MR. KRUGER: Yes.

MR. BELL: And, sir, this is a document that was obtained by me from your files. The reason that that has been done is as for the content, obviously, but particularly, the handwritten notes at the bottom of the page -- are you able to identify the author of those notes and whether specifically the three questions that were asked were answered as far as your office were concerned?

MR. KRUGER: No, I don't know who wrote those notes. As far as we can determine, we probably obtained -- you'll see it is a photostat -- it was probably obtained from MITT and as far as the questions -- I must admit I'm not totally au courant of what the answers to those questions might be even at this time.

MR. BELL: All right. I guess what I just want to have clarified for the record is -- I take it from your answers that your office wasn't involved in a specific effort to answer those three, any, or all of those three questions?

MR. KRUGER: No. I was a part of the team that was coordinated by Mr. Carmen and that is the extent of the review I contributed to the Premier's statement but my concern was the winddown of this company in an orderly fashion.

MR. BELL: Are you able to make out, sir, the handwritten word immediately below the last paragraph? -- immediately below the date June the 30th?

MR. KRUGER: Yes. One could say it is "polaris". That doesn't mean anything to me or it could be "b". That could be a "b". I really have no idea.

Since you have pointed this out to me, I have asked our staff would they be able to help me and I just don't know.

MR. BELL: All right. The last document, sir, Item 5, are you able to confirm that this is a memo by a member of your staff after a telephone conference with Mr. Parikh on the date indicated at the top of the letter?

MR. KRUGER: Yes, the signature is marked "Eric Smith" who is the Chief of Staff in my office and this resulted from him receiving a call from Mr. Pat Parikh and he told me of the call so I told him to put in a memorandum to the file immediately saying who said what and what the results were.

That is the memorandum you have in front of you.

MR. BELL: Okay, thank you, sir.

I have no further questions at this time, Mr. Chairman.

THE VICE-CHAIRMAN: Thank you, Mr. Bell.

Mr. Philip.

MR. PHILIP: Mr. Kruger, you took charge of your office August the 1st in '85 and as I understand it from testimony you have given elsewhere or other information that we've received including our questioning you on ODC, there were approximately six corporations that, for whatever reason, you decided to winddown or sell off -- can you tell us why no statement was made about the winddown of the IDEA Corporation until February the 19th?

MR. KRUGER: Oh, yes. The review took place and was not completed until around the middle of November. We then started writing the report. It was to go to Policy and Priorities. There was a lot of legislation going through. I was hopeful that we could get it before December. I am sure in some correspondence you must have, or perhaps in some minutes -- Mr. Macdonald was in a habit of reporting to his board the progress because I kept them informed as to what was going on. We did not get before the Policy and Priorities Board because of the legislation that was upcoming and also the fact that my document was seen by MITT. It was seen by Management Board staff at the staff level and I wanted to make sure there was a general consensus as to what we were talking about because there were some very strong views held within the bureaucracy as to what should happen with IDEA. So, it did not get to the Policy and Priorities until the 23rd of January. So, it was sitting then. And then it did not get to Cabinet until the 19th. It was just a matter of process -- as simple as that.

MR. PHILIP: Would it be safe to say that within at least the Cabinet's circles that it would be well known that IDEA Coporation was one of the six corporations that were being windeddown, or phased out, or closed, as the case may be? or sold?

MR. KRUGER: I don't think that it might be widely known. It was certainly known to the Treasurer and to the Premier and it would certainly be known to Mrs. Caplin that it was being considered.

MR. PHILIP: So, that it would be known to the Chairman of Management Board that this was ---

MR. KRUGER: Yes. That this was one that I was looking at because I sometimes had joint meetings with the Chairman of Management Board and the Treasurer.

MR. PHILIP: Can you appreciate that, as someone looking at it from the outside, that I would find it difficult to understand how a company that was winding down, that 60 per cent of its funding would, or of the funds spent, would be spent in that winding down period as compared to 40 per cent in the previous three years? Can you appreciate that looking at it from the outside that that might be difficult for one to understand?

MR. KRUGER: Yes, that would be very difficult for one to understand and some conclusions could be drawn from that which I think without command of all the facts might not be quite correct. You see, when I first went there, there was within the pipeline -- there was some \$14 million that was still of commitments yet to be made that were outstanding. That is \$14 million that was out there. That was one thing.

You had a new president, Mr. Blakeley. Mr. Blakeley is a deal maker. He brought in Mr. Logan and Mr. Cannon primarily to make up what was to be a plan, a business plan, and it was about the time that they came in that certain vice-presidents were released from the corporation. This was noted in the Provincial Auditor's Report and also it was noted in the Provincial Auditor's Report that there was some \$14 million so I would think that when you look at those figures and as we wound up asking for \$17.1 million, a good part of that was already entrained in July.

MR. PHILIP: It was necessary for Mr. Blakeley to go to you and say, "What am I going to do then? We don't have enough money to meet the commitments that are there, too."

MR. KRUGER: Well, Mr. Blakeley had enough money. He had \$50 million sitting in a bank account -- \$30 million as attested to in the audit report, another \$20 million that flowed after March 31st, so he had the money there. He was talking about another \$31 million -- \$15 million of which was to the Biomed fund and the board finally did not go along with that fund. He had \$10 million in a middle field investment which was a syndication which they were trying to unload and, in fact, when I first went there they were most hopeful that they would be able to divest themselves of that fund and so that there was certainly enough cash within the system for him to do anything that would be necessary. The great difficulty was if the board committed themselves to a Biomed fund, they would then be locked

(Mr. Kruger)

into a considerable sum of money and they did not make the decision to do that.

MR. PHILIP: I may want to come back to that when I find the exact statement by Blakeley in the Hansard. You mentioned that Management Board does not deal with the -- does not deal with the matter or with the approval of the monies that, in fact, would flow indirectly, or directly, or whatever word you want to use -- to Wyda until after Mrs. Caplin resigns? ---

MR. KRUGER: Yes, that would be in my report.

MR. PHILIP: In fact, that would be the day after or ---

MR. KRUGER: Yes. It was June 17th that Management Board did that because that was the windup document ---

MR. PHILIP: And she resigns on the sixteenth?

MR. KRUGER: Yes.

MR. PHILIP: Would it not be fair to say that Management Board would be in a position to know that this was what, in fact, was coming down the tube, that in fact there were only certain corporations that were going to receive money in whatever form -- that IDEA Corporation was going to be closed down -- that there -- and that Wyda would be one of those Corporations that would receive the funds?

MR. KRUGER: I would not know how specifically that they would. In the process within the government you have a certain amount of money that is allocated to each of the ministries. It is Management Board that then reviews that and makes the determination as to what will go in each of the categories. MITT was responsible for IDEA. When Management Board looks at that in respect to a ministry they do not get into the individual details in a Crown corporation that is under the -- presumably under the control of MITT. They look at it in a macro way. So, I don't know that anyone would know specifically and besides, the money for Wyda, which I have since discovered it wasn't done until March 6th, as the approvals by Management Board would have occurred at a time previous because they were in the budget of MITT, it was not until

(Mr. Kruger)

my report came forward that there would have been even any indirect indication of an amount of funds that was necessary in the investment account to see that this ran itself off in the portfolio.

MR. PHILIP: So, let me get this correct. You are saying then that lower down in the scheme of decision making, Wyda's monies would have been proposed prior to your bringing in the report that, in fact, says that IDEA Corporation is going to be closed down?

MR. KRUGER: No, no. What would have happened is when Management Board approved the budget of MITT, one of the things within that budget would have been the IDEA Corporation. No one would have looked at any specific file and that would have been approved at the time of the budget. Now, once that that was approved and it went forward, I don't know of any way that anyone from Management Board would have known about that specifically unless they deliberately asked, "What is the investment portfolio of IDEA?"

MR. PHILIP: Well, how can you approve a budget for IDEA Corporation unless you know what the expenditures are going to be in terms of what is being proposed and what is being contemplated as being approved?

MR. KRUGER: When the IDEA Corporation was established, it was established on the basis that the government would flow certain sums of money to it over a period of time. People would be aware of the files that were in there after they completed their report. This is not a schedule 1 agency. This is a schedule 2 and that was one of the great problems that I found in my review of IDEA is that there wasn't the accountability. There wasn't the control and this was nothing new.

MR. PHILIP: But, if one were projecting a budget based on the history of this corporation, wouldn't one have projected a lower budget than what, in fact, was included in that final budget that would have included the Wyda monies?

MR. KRUGER: I don't know, Mr. Philip, how that would have been. You may be right. I don't know how it would have been. In the \$31 million that was discussed, and I think it is in one of the exhibits here, it was presupposed that Bio Med was going to get into an almost syndication type of arrangement which is going to \$15 million plus. So, in the \$30 million, there was the \$14 million that was already in stream. Whether or not within that \$14 million, as of March 31st, 1985, Wyda was included, I don't know. I don't know how it could have been. Others were.

MR. PHILIP: I just find it difficult to know how you can set a budget of that magnitude unless you have some idea of what is going to use up those monies and not look foolish at the end of that year.

MR. KRUGER: Well, one of the things that MITT had continually asked IDEA to produce was a business plan and in that business plan they have sums of money that are identified. In that business plan they do not identify anywhere within it -- it is at a macro level at what will go into the various funds -- the research fund and so forth. They indicate that that -- they do not indicate what individual accounts would be. Now, within the files, and that would not be abnormal, within the files of IDEA, no doubt, they had some idea of how they made it up. Whether or not the question was asked which is in a budget process, I guess, a normal question -- all right, you've got a

(Mr. Kruger)

sum of money there, how did you arrive at that money? I'm not aware that that was asked because it was only when Logan and Cannon came on board was a business plan actually produced. The business plan is here and there is nothing within that that indicates what the -- it does indicate what the increase in the various funds will be, but not what they will be.

MR. PHILIP: I want to ask you one other couple of questions and that is, regarding the statement of Mrs. Caplin on June the 12th ---

MR. KRUGER: June 12th.

MR. PHILIP: June 12th -- in the Legislature ---

THE VICE-CHAIRMAN: Mr. Kruger, that is Tab -- just a moment. Is that Tab 10? No, I'm sorry ---

MR. BELL: A 7.

MR. PHILIP: I'm sorry. I should have put a tab number of it.

MR. KRUGER: Tab A 7?

THE VICE-PRESIDENT: No, it is here somewhere. A 8, Tab A, 8 A.

MR. KRUGER: I now have Tab A 8.

THE VICE-CHAIRMAN: All right. No, pardon me. That is her second statement. We are still looking for the first one.

MR. KRUGER: So, I presume that that is Tab A 7?

MR. BELL: I'm sorry. I think -- I'm sorry. It is Tab A 7. Sir, you have to turn to page, and this is the Hansard reference, page 1415.

MR. KRUGER: Yes, I have it.

MR. BELL: About half way down on the left-hand column is where ---

MR. KRUGER: Right.

MR. BELL: Again, her comments.

MR. PHILIP: If you read on page 1415 of Hansard then, Mrs. Caplin says in speaking about Mr. Caplin: "He was retained to oversee the financing accounting operations of the company. Wilf undertook to secure the secondary financing from the private sector and further that end he, as an excepted business practice, Wilf was referred to as the Vice-President of Finance. He was not an officer or director nor has he any beneficial interest in the company."

Would you agree that the first sentence gives the indication or leaves one with the impression that there would be no interaction between Mr. Caplin and the IDEA Corporation? -- that he would only be involved in terms of Wyda with secondary financing from the private sector? Would you agree that that is the implication of that statement?

MR. KRUGER: I must get your reference again. You went through it pretty quickly there. I am looking at 1415 and I'm looking at the bottom, left-hand corner.

MR. PHILIP: That is right.

MR. KRUGER: And I am looking at the second paragraph.

MR. PHILIP: The first paragraph.

MR. KRUGER: I'm looking at the first paragraph. Yes, I've read it and your question again, sir?

MR. PHILIP: Would you not agree -- I'll put it in a different way. Would you not agree that, in fact, from the evidence that we now have that, in fact, Mr. Caplin had a role that was far more extensive than the role indicated by Mrs. Caplin in that first paragraph?

MR. KRUGER: No, I wouldn't necessarily agree with that. I think that first statement -- I don't see that in particular conflict with the material that I found in the file and I can't find the tab but there was a tab and I remember seeing it within the file. There was something to the extent that it was going to get \$2,000 and I did not see -- and I based that upon my experience in the private sector where I was involved quite extensively with people who were doing financing. Afterall, I was in Traders' Group and Canadian General Securities at a very senior level. One of

(Mr. Kruger)

the ways that people would do it if they were retained on a retainer basis -- on a fee for service -- it would not be unnatural that they would just go ahead and just get a sum of money of a small amount. If they were going to get into equity, which was the real thing, then they would take a part of equity. Sometimes it was a combination. So, I don't see that. He undertook to attempt to secure secondary financing from the private sector. Well, I'd understood in some documents that I saw that that is exactly what it said.

MR. PHILIP: But, would you not agree that he, in fact, did more than that for the company? That he had direct interaction with IDEA Corporation from the testimony that you've, no doubt, read before you came here today?

MR. KRUGER: There was a time when he appeared to have had that but then that was, as I understand it, as of March 6th by Mr. St. Amant told me that Mr. Logan had indicated -- he had done no direct negotiations. However, I did see in the file he was listed as an officer. To me to be an officer means you've got some interaction in some way. Yet, it was not unnatural when people are forming companies -- the same as lawyers -- when you form a company, you may get a group of people to be the initial officers of the company just to set it up.

MR. PHILIP: So, in addition then to being an officer, would you not agree that he also had face-to-face interaction in a consulting sort of capacity with IDEA Corporation?

MR. KRUGER: Yes, I would agree that he certainly spoke with the people at IDEA at a lower level. There is no question about that. Whether or not he negotiated I think is a matter of the evidence.

MR. PHILIP: Would you not agree that in making the statement that "Wilf undertook to attempt secure secondary financing from the private sector," and then in the following sentence it is the following: "... that it implies that that was his sole function and that in fact there was no direct interaction with IDEA Corporation and therefore the statement is either inadvertently or deliberately misleading."

MR. WARD: That is not the company's statement on fourteen-sixteen. You can't take it out of context like that.

MR. KRUGER: Should I refer to fourteen-sixteen, Mr. Chairman. Perhaps you could help me.

THE VICE-CHAIRMAN: By all means.

MR. KRUGER: All right.

THE VICE-CHAIRMAN: Mr. Philip, you have about a minute left.

MR. PHILIP: Can you tell us anything about -- on the June 16th statement ---

MR. KRUGER: Yes.

MR. PHILIP: --- Mrs. Caplan states that, "The Premier, Mr. Peterson, has recommended to my husband that he completely sever his relationship with Wyda." He was told to completely sever or to at least sever prior to this, but we won't go into that ever again. Were you part of the advice or part of the decision making that led up to perhaps the Premier advising Mr. Caplan that finally now he should sever his relationship with Wyda?

MR. KRUGER: No I was not.

MR. PHILIP: And were you in any way or would you in any way have had any contact with the advice that had been given to him previously to "sever his relationship with Wyda"?

MR. KRUGER: No. I have no knowledge of that. My only contact on the question of conflict of interest was bringing to the attention of Mr. Webster at one point that he was involved with a file or something at that time as I have already today testified.

MR. PHILIP: From your knowledge of the ---

THE VICE-CHAIRMAN: Your time has expired.

MR. PHILIP: One last question.

THE VICE-CHAIRMAN: One last question.

MR. PHILIP: From your knowledge of the conflict of interest guidelines brought down by Mr. Peterson, would you agree that in the light of those guidelines as they presently exist and from your knowledge of them, that it would make some sense, the advice that Mr. Peterson recommended to Mr. Caplan, that he completely sever his relationship with Wyda?

MR. KRUGER: You have the advantage of me, Mr. Philip. I have never seen those guidelines by Mr. Peterson.

The guidelines I have seen is when I was at Metro where I brought in, just before I left, a series of code of conduct for Metropolitan staff, and I was very familiar with the difficulties in the Municipality of Metropolitan Toronto Act and the other acts dealing with conflict of interest.

MR. PHILIP: Okay, thank you.

THE VICE-CHAIRMAN: Mr. Philip, if you have any more questions you will have to go back on the list.

Mr. Pope.

MR. POPE: Thank you. Mr. Kruger, you indicated, I think earlier, that you didn't know anything about the Wyda/Caplan connection, Wyda specifically, until the matter was raised in the House.

MR. KRUGER: Yes. That doesn't mean to say I should not have.

MR. POPE: I just want to refer you to the transcript of Mr. Carmen's testimony, and I have marked it in ink, for you to have a look at, on both pages. It is June the 25th, 1986 and at page 30 and 31. And it is the morning sitting, June 25th.

MR. KRUGER: Yes, I have read that.

MR. POPE: Mr. Carmen appears to say, and I don't think I am misquoting him, that there was a discussion

(Mr. Pope)

about this problem in the context of Mr. Blakeley's arrangement with the Government.

MR. KRUGER: Yes. Perhaps I can be of some help to you, Mr. Pope. It was normal for me to review the status of the various matters I was looking into, generally with the Deputy Treasurer, the Secretary of the Management Board and Mr. Carmen. Sometimes I did it together; sometimes I did it individually.

I recall anything that was likely to come up at some point in time in Cabinet in a document or anything of that type, it was my custom to alert Mr. Carmen, because I normally do not attend Cabinet meetings unless there is some specific reason. And so what I had done on that occasion -- and this would have been after April the 7th, and I can't, I would have no idea. I was talking about the arrangements regarding Mr. Blakeley and Mr. Macdonald and it was more or less -- and I think Mr. Gillies put it as I read very well in there. Mr. Gillies -- it says there, "By the way, did you know that Wilf Caplan is representing this company?" I think it was more or less a remark like that and I didn't say "this company" because I didn't even know Wyda at the time. I said, "He has been involved in a company that was doing business with IDER; I have looked into it; there is no political connection; you may hear about it in the financial community, because this was not unknown in the financial community, I can tell you, because I have heard it from a couple of people." And it was done in that context. It was more in the way of just giving him information that I was aware of it; that I had looked in -- that there was no political influence. As a civil servant I was concerned about that.

MR. POPE: So you had heard from the financial community from a variety of sources in the spring of this year that Mr. Caplan was involved with some application?

MR. KRUGER: No. I had heard first on this application, I had heard that first from the people within IDER themselves, the staff. But I had heard that Mr. Blakeley, in conversation with some people within the financial community, had mentioned it. So it was in that context. It was just an "oh, by the way."

MR. POPE: Could you tell me, you put together a project team review idea?

MR. KRUGER: Yes.

MR. POPE: Did you itemize in that review which you forwarded to Cabinet, I take it?

MR. KRUGER: Yes.

MR. POPE: Was that forwarded, by the way, to Management Board and Cabinet?

MR. KRUGER: No. That went Policy, Priorities to Cabinet.

MR. POPE: And who are the members of the Policy and Priorities Board of Cabinet?

MR. KRUGER: Well, the Policy and Priorities Board, there is the Premier; there is Mr. Scott.

MR. POPE: Is Mrs. Caplan on that Board?

MR. KRUGER: Yes.

MR. POPE: Okay. When was your review forwarded?

MR. KRUGER: To Policy and Priorities?

MR. POPE: Yes.

MR. KRUGER: They didn't get it until January 23rd.

MR. POPE: '86?

MR. KRUGER: '86. However, the data within it related, as of October 31st when I completed the report, it was a matter of processing it through the various committees.

MR. POPE: So you completed your report October 31st and it was going through various committees of ---

MR. KRUGER: I completed my report in the middle of November. But the reference to the files, and that was in the investment portfolio of IDER, was as at October 31st.

MR. POPE: Was there any review by your project team of outstanding applications?

MR. KRUGER: No. I concentrated on the review of

(Mr. Kruger)

those that were already in the files. You see, there was a lot of sensitivity, and when you do this type of work you have got to be very careful about morale as best you can. And the files that were in process might well be turned down.

I generally in a case like this, I was looking at the strategic position of where IDEA should be. My concentration was not an audit. I had looked at about -- I normally try to look in cases like this between 10 and 20 per cent of the files, and that is what I did; and the files that I looked at in some detail merely to get a sense of the internal management control. What was the processing like? What type of reviews did they do? What was the countervailing forces within IDEA as opposed to the deal makers and those that were concerned about looking at the credit; in other words, looking at it from a corporate level. And there some eight files I looked at.

MR. POPE: The review team had included a representative of the Management Board?

MR. KRUGER: No, there was -- it was mostly through the MITT. However, it was discussed with Management Board, Mr. Sloan, as to progress from time to time, but they were not a part of the team.

I hesitated a little there because Mr. Simpson, who has become the Associate Secretary, resigned my group, and he has since become -- but he merely participated with the entire group as to what was going on in IDEA, but he was not a part of the team.

MR. POPE: Who represented MITT?

MR. KRUGER: Oh, within MITT, as far as representing them, the discussions I held were with Peter Barnes, and there were a lot of files from Peter Barnes that were in there which dated back to 1984, at the time Mr. Miller was in that portfolio. There was Mr. MacDonnell, who was the Deputy at that time; there was Anne Whelan-Griffin; there was Mr. Gervin, who was the Assistant Deputy of that Ministry. I had discussed the file also with certain people in Treasury; they contributed to the file. Sometimes it was matter of review, and other times it was a matter of getting people together in groups.

Of the other ones, there were a couple of executive assistants, I know, who came in from time to time to contribute towards the review. There were a lot of people involved.

MR. POPE: You would be aware, from advice or reading of transcripts, that Mr. Barnes and his group's participation in these two applications has been noted?

MR. KRUGER: In which two applications?

MR. POPE: Both in the Cumberland Group and in Wyda.

MR. KRUGER: Well, the Cumberland Group I know nothing about. Wyda -- that might be. I certainly did not pick that up from the transcripts. I've glanced through the transcripts.

MR. POPE: What happened with the IDEA Corporation Minutes? Were they sent to you?

MR. KRUGER: No. Any Minutes I got, I asked for. And when something came up -- for example, I got the Minutes of the March 6th after that problem that was there. Most of the Minutes I had to have because the status of certain staff members was recorded in the Minutes as to whether or not they were actually employees or if they were on contract. That was my main motivation.

MR. POPE: So you didn't get all of the Minutes; that's what you're saying.

MR. KRUGER: No, no.

MR. POPE: Okay. Do you know who did?

MR. KRUGER: I would think the Members of the Board got all of the Minutes.

MR. POPE: Would anyone else in government?

MR. KRUGER: If anyone else did, it might have been a request. Certainly, in the wind-down period, I imagine the Minutes would have been available to MITT. Prior to that, I don't think anyone in government would have had them.

MR. POPE: What was the approval process, as you understand it, for IDEA's grants or participations or investments?

MR. KRUGER: Well, there was -- this was one of the great problems -- there was no reference back to the government or any Ministry as to what was going on with regard to any investment. They were given a sum of money, and within that they operated at arm's length completely.

Their process internally -- and this was one of the problems, I found -- the people who worked on the files would go out, and they concentrated first on technology; was the technology any good? Then they'd concentrate on the marketing. One of the great problems, I found, was that there was not then the review done, because my experience in the private sector is, you're not only giving money, but the people are one of the most important things in this business, and you've got to have a track record on them; you've got to know if they've ever been bankrupt, or you've got to know their history and things of this type. So I was surprised that in the files there were no applications. So the credit side of it concerned me.

(Mr. Kruger)

However, after that was done, it was normal for them, about a week or so prior to a Board meeting, to consult with Mr. Macdonald, the people who were going to make the presentation. Presumably, when Mr. Blakeley -- and Mr. Blakeley -- most of the acceleration that went on in IDER occurred after Mr. Blakeley came on board, and that would have been, I guess, in April, May, June, and then he really started to clean up these files.

After they'd discussed it with Mr. Blakeley and Mr. Macdonald, it would go to the Board and there would be a presentation, a sound and light presentation, and then the Board would make some decision. In advance, they would have a document that details it, and I did not see the Wyda document until just recently, and I asked to see it, and Mr. Parikh, I think, made it up, and it was a very glowing report.

MR. POPE: Were you part of the transition team?

MR. KRUGER: No. I'm a civil servant.

MR. POPE: Have you produced today all the documents in your possession with respect to this matter?

MR. KRUGER: Yes. Well, I've got about 30 files, and counsel has been through those files. I felt sorry for counsel, having to go through them, but anything that counsel wanted, he got.

MR. POPE: All right.

MR. KRUGER: The only understanding we had is that Cabinet documents -- as a civil servant, I think there's a duty upon me to make sure that no precedents are created, and so forth, and we discussed that. Whatever he wanted, he got.

MR. POPE: Can you consider providing me something I'd like?

MR. KRUGER: It depends on what it is.

MR. POPE: The report of Mr. Doyle on the IDER Corporation.

MR. KRUGER: No, I can't provide that to you. I do remember seeing that document. You know, it is out of

(Mr. Kruger)

significance with people. Mr. Doyle's document, as I remember -- it came to me from someone, I guess, from the Premier's Office; I can't remember when. I did meet with Mr. Doyle, and I did meet with another gentleman with Mr. Doyle. There was a two-page summary, and I remember there were about eight pages or something, and it was in a green folder. That's as much as I remember, and it was not an earth-shattering document, as I recall. It had no influence upon what we were discussing in IDEA. And wherever that document is now, I sent it back to the Premier's Office.

MR. POPE: Can you -- well, as far as you're aware, it went back to the Premier's Office.

MR. KRUGER: Yes, somewhere there.

MR. POPE: Okay.

MR. KRUGER: And, incidentally, it was just a report of someone, as I understood from my conversations with Mr. Doyle when he came in; he'd done it in a couple of days or something.

MR. POPE: Yes.

MR. KRUGER: It did not influence me, Mr. Pope, in my judgements, I can assure you.

MR. POPE: All right. Now, P4.

MR. KRUGER: P4.

MR. POPE: P4. That's right. You don't know who's writing this is?

MR. KRUGER: No, I have no idea.

MR. POPE: But this was in your possession.

MR. KRUGER: Yes. I believe that I would have obtained it -- as you see, it's a photostat -- I would have obtained it probably from MITT, but I can't ---

MR. POPE: You realize the significance of that word as Polaris?

MR. KRUGER: The significance ---

MR. POPE: You don't know about Polaris?

MR. KRUGER: No. What is Polaris?

MR. POLSINELLI: It's a program to organize the Registry Office.

MR. POPE: No, it happens to be a company involving Mr. Swartz and Mr. Graham.

MR. KRUGER: Oh. No, I've never heard of it.

MR. POPE: And you never ask questions arising out of these notes?

MR. KRUGER: No, I was more interested in what the member had said, and I was not interested in the notes. As a matter of fact, this was in the file of someone else in my office, and I just don't remember. What I had was the clean copy of the news release. But I don't know ---

MR. POPE: Can you advise us in a letter as to -- I don't want to take too much of your time; I know you're busy. Could you advise us in a letter as to ---

MR. KRUGER: Where I got it from?

MR. POPE: --- having consulted with the person whose file it was, and can you find out whose writing that is?

MR. KRUGER: If he's able to tell me. As a matter of fact, what happened, with counsel -- I think counsel found it in his file, and he was right there. So counsel went right in immediately and said, "What's this?" And it looked to me as though it could have been Polaris; it could have been something else. He didn't know.

He didn't know at that time, but certainly, Mr. Pope, I'll go back and ask him again, and I'll give you something in writing if we can find it.

MR. POPE: Thank you.

MR. KRUGER: No problem.

THE VICE-CHAIRMAN: Thank you, Mr. Pope.

Mr. Wildman?

MR. WILDMAN: Thank you, Mr. Chairman.

Mr. Kruger, I'd like you to refer to the transcript of the proceedings of the Committee dated July 2nd, the morning sitting. I don't know whether you have that.

MR. BELL: What page?

MR. WILDMAN: 1105, P1105-2.

MR. KRUGER: What page, sir?

MR. WILDMAN: P1105-2.

MR. KRUGER: Yes, I have that. That's labelled 41.

MR. WILDMAN: Right. There Mr. Macdonald from IDEA Corporation was testifying before the Committee, and he was dealing with the meeting at which you were in attendance of the Board in which you indicated the future as you had recommended for the Corporation.

MR. KRUGER: Yes.

MR. WILDMAN: That it would, in fact, be wound down.

MR. KRUGER: Right.

MR. WILDMAN: You'll note that in Mr. Macdonald's statement he is -- I don't know whether he's quoting or paraphrasing your comments when he says that you indicated, "It's business as usual. We want you to complete those transactions that are in the pipeline," and "that we should carry on in a regular manner."

MR. KRUGER: Yes.

MR. WILDMAN: What I want to ask you is: If your decision or recommendation was that the corporation be wound down, why is it you would give that advice to the Board of Directors, particularly as it would relate to applications that had not been approved by the Board, but were being dealt with at the staff level at the time you made your decision?

MR. KRUGER: Well, the reason is very simple, Mr. Wildman. This was not a bankruptcy; we were not getting out of the business. If it was a bankruptcy and you give a wind-down, you cut everything off right then and there. This was not the case. The government is staying in the business of pre-venture capital. As the Treasurer said in his statement of October 24th, a new entity would take its place. That entity is going to be under the control of ODC. It make absolutely no sense for anything that was already in process to be suddenly cut off. In a bankruptcy, I'd agree with you, sir. That's exactly what you'd do in a wind-down. This was not a wind-down in the sense of a bankruptcy; it was a wind-down and then a wind-up, and that wind-up is going to be through Innovations Ontario, which is going to be under the control and the direction of the ODC Board and reconstructed.

So it's for that reason that, when they asked, I said, "Well, you would carry on anything that's in process. You've got the money; the money is there in the cash flow. You would carry on and do it." But there would probably be different standards.

And you must remember, at this point in time, MITT has not made up its mind precisely just what this new entity would be.

MR. WILDMAN: Okay. I understand what you're saying, but at the time you've indicated there's going to be a wind-down, I could certainly understand why there would be business as usual within terms of administering the portfolio, the investment portfolio. But it does seem rather strange to me why a corporation that is going to be wound down would have open to it the possibility of making this one and another, I guess, that were the biggest investments it had made.

MR. KRUGER: Well, at that time I was not aware -- and I tried as best I could to make sure that this as a corporate entity would be a properly constituted corporate entity as of June 30th. They had certain commitments out there. Some of them were contractual; certain commitments that were given by members of the staff to process. And as we were not getting out of the business of pre-venture capital, and I was unaware as to what the standards that MITT might come up with at that time, it seemed to make no sense that they should stop that.

My real concern, quite apart from that, were the people. And my concern with the people was to try and

(Mr. Kruger)

attract some of these people to come to the Ministry and become involved in it. But they were so very strong -- and you may have gotten some indication from Mr. Logan and Mr. Cannon -- that these people really do not want to be any part of government, period. They see themselves as completely separate, and I was finding difficulty with that. And they had already made commitments, so that was the reason.

MR. WILDMAN: You said earlier that Mr. Cannon, who appeared before this Committee, specifically asked you if there was to be political interference.

MR. KRUGER: That's right.

MR. WILDMAN: Do you understand what he meant by political interference? Did you understand that to be involvement of a politician or someone representing someone at the political level?

MR. KRUGER: No, that's not the context. You see, when I first went down there, there was a predisposition in the minds of the people in IDERA because they had been subject to very bad press over a couple of years, and some of the previous Ministers who had been there from the previous government had been very strong in their criticism of IDERA.

So the question was framed in the reference that now that there's a new government that had said when they were in opposition that IDERA was no good and IDERA has got to go out, the question to me by Mr. Cannon was: "Was that the reason that this decision was made? Was it a political decision that our fate was predetermined before we even started?" And I said, "As far as I'm concerned, it was not." Because I went in as a businessman to take a look at this and as a public administrator to determine what was the best course of action for the government. And one of the first things I had to determine in that is: Was the government going to stay in pre-venture capital? Because I'd known if they didn't stay in there, that would be a mistake.

MR. WILDMAN: At that meeting, you indicated to the Board, as I understand it, that any further applications to be approved would have to be referred to the Ministry. Is that correct?

MR. KRUGER: Any new ones that were not being processed would have to be referred to the Ministry; that's right.

MR. WILDMAN: And at the time, did you in any way review those that were not yet part of the investment portfolio, but were "in process" of being approved?

MR. KRUGER: No, I did not review them. The decision was made, and from that point in time on, my concern was to get an orderly wind-down of the corporation. It was the concern of MITT to become familiar with the files, to see the type of staff that they would need to handle those files, and that was their responsibility clearly.

MR. WILDMAN: Again, though, when you're talking about a wind-down, and you've told them that they should continue business as usual because the government is staying in venture capital, did you anticipate that they would, in fact, be increasing and making grants larger than they ever had before in this period? Not grants; investments. Sorry.

MR. KRUGER: The quantum was not of as great a concern to me as it was in the total amount of the money, and the money was -- there was \$14 million in March 1985 that was in process, and we finally had it at \$17.1. The fact that it's \$2 million -- to me, when I looked at the company, I have as much respect for \$100,000 as I have for \$1 million, and when you're doing a management review of something, that's what you look at. You look at the control of it. The fact that it was \$2 million -- they had Middlefield, and that was \$10 million, a thing they shouldn't have been in. I was more concerned about them getting out of that. And that's obviously one that we're going to have to run out.

MR. WILDMAN: Two other questions or areas.

One: In relation to your -- you said you were attempting to encourage members of the management team at IDEA to stay on. I understand that subsequent to the June 30th, Mr. Logan and Mr. Cannon, and I guess Mr. Maruzzo as well have in fact signed contracts, short-term contracts with ODC to assist in the change-over.

MR. KRUGER: Well, Mr. Logan and Mr. Cannon -- it's a two-week period.

MR. WILDMAN: Yes, right.

MR. KRUGER: Mr. Maruzzo -- he's discussing matters with ODC, but whether or not they come to a final agreement I think is open. Actually, the control now of it will be under the ODC Board, and the staff of MITT will ---

MR. WILDMAN: Is it your view, or was it your view, that the staff of ODC and MITT, I suppose, as well, did not have the expertise to manage this portfolio and continue in the venture capital business?

MR. KRUGER: Mr. Wildman, that was a concern of mine. It was a concern of mine that -- and this is the balance of what I tried to do. I started off with the idea that this should really be a Schedule 2 agency. That's what I started from. But then when I saw the internal conditions and I read all of the files and I took a look at what they were doing, I knew several things. There had to be a memorandum of understanding drawn between the Ministry and the new IDEA, if you will. That memorandum of understanding would have to be very, very precise as to what they could do. We couldn't afford to have them do some of the things that the Provincial Auditor pointed out within his report. That's silly. You don't do things like that in the public sector. So that was one thing we'd have to have.

Secondly, we'd have to have very clear lines of accountability as between MITT and the new IDEA.

And the further I looked into these things and described everything that was necessary, the more I realized I was describing a Schedule 1 agency.

My difficulty with a Schedule 1 agency -- and there was a body of opinion within the bureaucracy that said it should really be within MITT as a department of MITT,

and I fought against that successfully.

The compromise that was worked out was ODC, because when I was first doing this, ODC had a certain orientation which I did not particularly think would be a good thing to place this IDEA portfolio under, and I believed there had to be a new entity to take its place.

So the compromise became ODC, which is Schedule 1, but an agency under the ODC, so that under ODC you could have a supermarket, if you will, of grants, loans, equity investments, or whatever it is. So that wherever the ODC offices are, if it happened to be pre-venture capital, it could be referred to the pre-venture capital arm, which will be Innovation Ontario.

MR. WILDMAN: The other issue I want to ask about is your involvement in the investigative team that the Premier put together after this came out in the House.

MR. KRUGER: Yes.

MR. WILDMAN: And your assistance in the preparation of the statement that was read by the Premier.

MR. KRUGER: Yes.

MR. WILDMAN: Am I to understand that you had released this issue of Mr. Caplan's involvement with Mr. Webster previous to it coming out in the House?

MR. KRUGER: Yes. It was just a question of Mr. Webster that I had found out this information, and was he aware of it. He indicated he was aware of it. He said there was no conflict, and I was not looking at conflict of interest. I didn't even know what ---

MR. WILDMAN: And your only involvement in the investigative team was because you had been reviewing IDEA; is that correct?

MR. KRUGER: Oh, I contributed certain things to that statement. One of the things I made sure, having looked at the file, is that, on page 6 of the statement, that at the time of application and approval of the Wyda proposal, Mr. Caplan was listed by Wyda as the financial consultant and given the title of vice-president, and I had seen that within the file. And I made sure that was stated, because I wanted this to be, if I had any involvement in it, as accurate as my information and knowledge could make

it.

MR. WILDMAN: And you didn't -- you yourself in part of the discussions that went into the preparation of that statement didn't see that as a possible conflict?

MR. KRUGER: I was not looking for conflicts; I was looking for statements of fact. We had Mr. Wright there in that team, and I do recall seeing a letter that had indicated there was \$2,000 that Mr. Caplan had received, and Mr. Wright had indicated, right within the group, yes, it did not constitute a conflict of interest. And that satisfied me; he should know. Never argue with solicitors.

MR. WILDMAN: I do it all the time. At the same time, there was a meeting of the Management Board on June 17th which approved additional monies.

MR. KRUGER: Yes. That was the final wind-down document.

MR. WILDMAN: Now, to have those two things happening at the same time -- wouldn't it have made sense to put some hold on the one when the other was occurring?

MR. KRUGER: No. As of June 30th, there wasn't going to be an IDEA Corporation. As of June 30th, all of the monies had to pass. It was a technical thing that just had to be done. This was the last date that I could get on Management Board and get the process through the Cabinet before the June 30th wind-down. It is normal to have a final wind-up letter, and within that report there was the definition of what each of the individuals would be receiving with regard to severances. So that's a very important ---

THE VICE-CHAIRMAN: Mr. Wildman, you have about one minute.

MR. WILDMAN: Okay. I'll just finish off one other question.

Since part of the monies that were approved by Management Board were related to the investment in Wyda, was that matter raised, because of the controversy, during the discussion that lead to the approval of the monies?

MR. KRUGER: Mr. Wildman, I've already ---

MR. WILDMAN: You've said that it was a global amount and that there was not discussion. Surely ---

MR. KRUGER: I said something else, with respect, Mr. Wildman. I said when I saw that going through, and I got in touch with the secretary of Management Board to indicate that there was a schedule, there was an amount of \$17.1, no one would know what was in it, but it has everything to do with the investments and there could be an indirect association, and I said, "Make sure you inform the Minister, Mrs. Caplan, that that was the case." As it so happens, when that was dealt with, it was dealt with, and the Chairman of the Management Board was the Treasurer.

MR. WILDMAN: Because Mrs. Caplan had resigned.

MR. KRUGER: That's right.

MR. WILDMAN: But then ---

MR. KRUGER: But I would have made it my duty to inform Mrs. Caplan myself if she had still been there.

MR. WILDMAN: Okay.

MR. KRUGER: Then she could do what she wanted.

MR. WILDMAN: As far as you know, then, your advice to inform the Management Board of the involvement of Mr. Caplan was followed, even though it was no longer Mrs. Caplan who was the Minister.

MR. KRUGER: No. I know a little bit more than that, because the secretary of the Management Board -- when I followed up with the secretary, I said, "Did you inform Mrs. Caplan?" He said, "So much is going on, let's wait until the thing gets towards Management Board, and I'll tell her at that time." And, to the best of my knowledge, she was never informed.

MR. WILDMAN: Was the new Minister, was the Treasurer informed?

MR. KRUGER: I imagine so. I don't know. I wasn't at the meeting.

MR. WILDMAN: Well, of course. But as far as you know, when the monies were approved, the people approving them would have known that it involved Wyda, and Wyda involved Mr. Caplan.

MR. KRUGER: I can't speak with any definition to that. I would have to ask the Secretary of the Management Board.

MR. WILDMAN: Thank you.

THE VICE-CHAIRMAN: Members of the Committee, we had a while ago wondered if we might finish questioning Mr. Kruger at 6:30. We now have three more members with questions. Each has one. Let's try for it, and if we have to go a few minutes beyond 6:30, do we have unanimous consent?

(Agreed)

Mr. Ward.

MR. WARD: Just quickly, Mr. Chairman.

To Mr. Kruger: In reference to P4, the copy of the news release and the mysterious notes that are attached thereto, do you know at what time you received a copy of that? I assume it was sometime between June the 10th and June the 16th. Are these part of the documents that were available in your team discussion?

MR. KRUGER: No, this wouldn't have been in our team discussions. All the team was gone. There wouldn't have been any discussion. You see, the report of June 17th was completed well before that time.

MR. WARD: So you don't know what date you received a copy of this?

MR. KRUGER: No, I would imagine it would have been quite some time after that. Otherwise, if it was thought to be significant, it would have been brought to my attention.

MR. WARD: The only reason I make the point is that the notes attached to the bottom seem to refer specifically to the questions that Mr. Gillies raised on June the 12th in all of those issues that were read.

MR. KRUGER: Yes. So it would have occurred after that time.

MR. WARD: I don't have any other questions.

THE VICE-CHAIRMAN: Thank you, Mr. Ward.

Mr. Pope.

MR. POPE: Yes, I have just one question. Was there any Management Board approvals before June 17th with respect to IDEA Corporation?

MR. KRUGER: Yes, there was one that dealt with a severance. I've already testified to that.

MR. POPE: Yes.

MR. KRUGER: There was an initial one that went forward talking about some money that would be needed to run IDEA for the winddown period -- this is after the 19th, from the 19th through to the 30th but it did not deal with investments. It dealt with the normal monies for severances -- for administrative purposes.

MR. POPE: And do you recall when that was dealt with?

MR. KRUGER: Off hand, no. It would have been up to the 19th.

MR. POPE: Did that document list outstanding projects for ---

MR. KRUGER: No, no, no.

MR. POPE: You've reviewed that document yourself?

MR. KRUGER: Yes, I signed it.

MR. POPE: You signed it?

MR. KRUGER: Yes. I signed it. It became a Cabinet document.

THE VICE-CHAIRMAN: Thank you, Mr. Pope.

Mr. Philip.

MR. PHILIP: Would you agree from the comments that you have made in response to Mr. Wildman's questions that the problems of the IDEA Corporation was more than just accountability to government but it was also that bad decisions were being made or inappropriate decisions were

(Mr. Pope)

being made at various times by the IDEA Corporation?

MR. KRUGER: There was a marked improvement when Cannon and Logan came on board. I must tell you from the little that I did see of that -- but I saw very little of that but some of the decisions that were made prior to that time were not good decisions and I'm talking about 1984. I'm talking about the period particularly in that time because you must remember certain vice-presidents were released from that corporation and so was the president released from the corporation.

MR. PHILIP: Would you agree that there was a problem with the board?

MR. KRUGER: With the board?

MR. PHILIP: Yes.

MR. KRUGER: Yes, the board -- I've dealt with a lot of boards and this seemed to be a board that seemed to be very concerned about the investments that were being made; they were a dedicated board. I think that with the information that they had before them, I think, from my observations, they seemed to be making the best decisions that they could. If you could criticize the board as one could criticize any board after the fact, is why was there not a review of some of the procedures internally?

Why didn't some member of the board ask for that? Why didn't some member of the board just ask a very simple question? Did you do a review of this individual? Did you do a review of the companies? Do you know what companies they are involved in still? Have you done such a thing as look at their resume?

Now, that normally a board would not get involved in. You would expect that your Chairman of the Board and your president would do that. So I have a lot of sympathy for this board. I think they were a very concerned board and I think they were very dedicated. They were certainly very strong, that there was no way that when this thing was wound down or anything to do with pre-venture capital they made the point to me very clearly that the government had to stay in pre-venture and they were very strongly for that. It meant employment. It meant jobs. It meant all of those things and I agreed with that. And the other thing that they were very strong on is: you could not

(Mr. Kruger)

have it as a department within the Ministry.

MR. PHILIP: Okay. Notwithstanding the fact that what we are looking at is really a snapshot or a very short picture in the life of a board -- a series of decisions -- would you not agree that just looking at that snapshot that it would appear that the board was less than diligent in, one, not having questioned and discussed at some length when the issue of the appearance of conflict came up; and two, not having questioned, at least in this one company, Wyda Corporation, the track record of the Vice-President of Finance when, in fact, there seems to have been some difficulty with other corporations that that person was connected with?

MR. KRUGER: To answer you as honestly as I can and in observing this board in relation to others, I think their political sensitivity to the fact that the name of Mr. Caplan came up and their knowledge perhaps of the train of events that could take effect from that track, I don't know that the board was politically astute enough, perhaps, to have noted that in any way. They were there as business people, as labour representatives to give their best shot as to whether or not an investment could be made. So I would think -- I have a lot of sympathy for the board in the fact that they might not have given the prominence that you, sir, or I, might have given to this fact.

As to whether or not they should have asked questions, one of the great things of life is to have hindsight; even I should have asked questions as I looked back through those minutes and I noted the Wyda thing but that wasn't noticed until after all of this was raised and I thought to myself, "Well, I may have been busy. I missed it." So, I would think if you were to ask them that question today: should they have done more? Yes. They should have. But, you must remember the board at that time were fighting to keep their autonomy which they had always had very, very strong. They did not want interference from government. In fact, one of the great difficulties of the previous President of the board, and this comes as no news -- it is on the public record, it has been said by Mr. Miller at one time -- is that they considered their role was to create a profit. And that should not be. That's not the business of public policy.

THE VICE-CHAIRMAN: Thank you, Mr. Philip.

(The Vice-Chairman)

Mr. Kruger, that completes the questions from the committee at the current time. We thank you very much for appearing.

MR. KRUGER: Tonight?

THE VICE-CHAIRMAN: No. No, you will not be required tonight. If the committee chooses to recall you, sir, it would not be for some several weeks.

MR. KRUGER: - Mr. Gillies, it is always a pleasure to come back before your committee. I'm getting kind of used to it.

THE VICE-CHAIRMAN: Thank you, Mr. Kruger.

There is no intention at this time to recall you, sir. Recalls will only be ---

MR. PHILIPS: Stand-bys for the UTDC questions though.

MR. KRUGER: I'm working on that right now.

THE VICE-CHAIRMAN: Could I ask the committee to remain for a two or three minute in-camera meeting just to discuss a couple of scheduling matters.

MR. WILDMAN: Is it in order for me to raise my concern about possible witness that I mentioned at the beginning of the meeting?

THE VICE-CHAIRMAN: Well, if you are going to do that, you want to do that on the record, or, would you rather do it in camera?

MR. WILDMAN: Well, it's not a private matter.

THE VICE-CHAIRMAN: Okay, let's do it in camera then.

And, yes, let's turn the air conditioner on.

There is a problem apparently that Hansard cannot pick up what's being said if the air conditioner is on.

I am going to ask the Clerk to look at that. The Legislature in its wisdom has taken the one air-conditioned

(The Vice-Chairman)

committee room and turned it into another purpose.

Could I ask everybody in the room who is not a member of the committee, or staff to the committee, please to vacate and the record to be terminated for the moment. Thank you.

The committee adjourned at 6:37 p.m.

P-20

STANDING COMMITTEE ON PUBLIC ACCOUNTS

ALLEGED CONFLICT OF INTEREST

MONDAY, JULY 7, 1986

Evening Sitting

Draft Transcript



STANDING COMMITTEE ON PUBLIC ACCOUNTS

CHAIRMAN: Runciman, R.W. (Leeds PC)

VICE-CHAIRMAN: Gillies, P.A. (Brantford PC)

Epp, H.A. (Waterloo North L)

Gregory, Bud (Mississauga East PC)

Philip, E.T. (Etobicoke NDP)

Polsinelli, C. (Yorkview L)

Pope, R.W. (Cochrane South PC)

Wildman, B. (Algoma NDP)

Substitutions:

McGuigan J.F. (Kent-Elgin L) for Mr. D.W. Smith

Ward, C.C. (Wentworth North L) for Mr. Rick Ferraro

Fish, Susan (St. George PC) for Mike Harris (Nipissing PC)

Clerk: Arnott, D.

Staff:

Fritz, H., Research Officer, Legislative Research Service

Bell, J., Counsel; with Shibley, Righton and McCutcheon

Peters, M., Associate Counsel; with Shibley, Righton and McCutcheon

Witnesses:

Barnes, Peter, Deputy Minister of Community & Social Services

Parikh, Pat, Employee of IDERA Corporation

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON PUBLIC ACCOUNTS

Monday, July 7, 1986

The committee met at 8:25 p.m. in committee room 228.

ALLEGED CONFLICT OF INTEREST
(continued)

THE VICE-CHAIRMAN: I think we'll come to order, and the first witness this evening, I understand, is Mr. Peter Barnes. Mr. Barnes? I apologize for our late arrival, Mr. Barnes. With the schedule being what it is, members are trying to catch up on their other work during the break. I'll ask the Clerk to administer the oath for you.

Mr. Barnes sworn.

THE VICE-CHAIRMAN: Thank you, Mr. Barnes. We'll start with Mr. Bell.

MR. BELL: Thank you, Mr. Chairman. Mr. Barnes, you are currently Deputy Minister of Community and Social Services?

MR. BARNES: Yes.

MR. BELL: How long have you held that position, sir?

MR. BARNES: Since mid-September of last year.

MR. BELL: Prior to that date, you were Assistant Deputy Minister of Industry, Trade, and Technology?

MR. BARNES: Of Innovation and Technology in the Ministry of Industry, Trade, and Technology.

MR. BELL: Thank you. Generally, what were your responsibilities in that position, and specifically, what were they for the IDEA Corporation?

MR. BARNES: Generally, they were to

July 7, 1986

provide encouragement to the development of technology and the application of technology in the province of Ontario, and they involved the six Ontario technology centres, primarily. They also involved representing Ontario in technological terms, assisting in missions abroad and so on; and in terms of the IDEA Corporation itself, when I first joined, I was appointed Secretary of the IDEA Board. That would have been in July, August 1983; and then in around about April 1985, I think it was, I was made a director of the IDEA Corporation in place of the Deputy Minister of Industry, Trade, and Technology.

MR. BELL: That's an item, sir, I'd just like to clear up right now. In the IDEA Corporation material, in fact, at tab number 1 -- I think you've had an opportunity of reviewing the document.

MR. BARNES: Yes.

MR. BELL: There's a listing of Board members as of March 1986.

MR. BARNES: Yes.

MR. BELL: And your name is listed with an asterisk and then there's a little note. Have you had a chance to review that note and do you agree with its contents?

MR. BARNES: I do. I told them that I would not have anything to do with the IDEA Corporation in terms of board meetings or anything else after I joined Community and Social Services, and I was waiting for my replacement to be appointed before formally handing in my notice. In fact, he wasn't appointed until after April 1986.

MR. BELL: Okay. Now, as you know, sir, the subject matter of this Committee's inquiry is the investment by IDEA Corporation in Wyda, as for the terms of that investment, which was approved by the Board of Directors of IDEA on March the 6th of this year, and the transaction was closed on or about the 18th of April, also of this year.

You're probably aware, sir, that last week Mr. Blakeley, in his testimony, recalled that his first introduction to Wyda came via a telephone conversation

July 7, 1986

(Mr. Bell)

with you sometime in August of 1986. Can you confirm that fact, sir?

MR. BARNES: I'm not sure that I can, but I'll accept it. We were getting a lot of inquiries for funding via ODC, via IDEA Corporation. We tend to be a filter for any sort of proposals for funding from technology companies.

When Wyda was first mentioned and I first became conscious of the issue in the papers, I frankly thought it had absolutely nothing to do with me. Since then, I have tried to think about it, and I have read over the weekend the testimony that's been put forward in the transcripts, and I must admit I do remember having mentioned to me the fact that there was a person from the Israeli Defence Group who had some innovative new CAD/CAM technology, and I've tried to remember where that may have come from and I have a few ideas on that, so I suspect, yes, I probably did make that phone call.

MR. BELL: All right. Can you assist the Committee, sir, with how you were introduced to the Wyda Corporation?

MR. BARNES: Best I can imagine is that we either received a proposal through the post, which I would have passed on; but given that it was a telephone call, it was more likely that it was mentioned to me, as was quite frequent. People would say, "I have a proposal. Can you tell me who I should talk to? The ODC? IDEA Corporation? Who it might be?" and we'd give them some indication. I suspect it may have come up via the Cumberland Group, who were attempting to get some level of interest in the Wyda Corporation.

MR. BELL: Is that a belief on your part as of today's date sir, that that's ---

MR. BARNES: That's the best guess I can make.

MR. BELL: Do you recall specifically whether you had any discussions with -- and this is in August of 1985 -- with a representative of a company by the name of Canadian Intercorp?

July 7, 1986

MR. BARNES: Is that ---

MR. BELL: That's Mr. Ivan Fleischman.

MR. BARNES: That's Mr. Ivan Fleischman. In looking through my diary, I find that I had lunch with Mr. Ivan Fleischman on August the 14th, 1986.

MR. BELL: Can you recall the purpose of that?

MR. BARNES: Yes. He wanted to talk to me about the Ontario government. He described himself as a "lobbyist," and he wanted to find out how the whole IDEA/ODC technology situation worked and what the issues were around that. I remember describing that to him.

MR. BELL: Did you discuss Wyda specifically at that luncheon?

MR. BARNES: Not that I consciously remember, no.

MR. BELL: Did you have any discussions or any dealings of any nature or kind whatsoever with Mr. Fleischman or his company prior to August the 14th?

MR. BARNES: Not that I remember, no. He would have phoned up to make the lunch appointment, I presume, so I may have spoken to him over the phone, but I had never met with him prior to that meeting on the 14th.

MR. BELL: If he did call on the phone to arrange the luncheon, would it have been with you that the luncheon was arranged directly as opposed to ---

MR. BARNES: Well, it could have been my secretary, but I don't know that my secretary would have made an appointment with someone I'd never met before without referring to me first, so she probably passed it through to me.

MR. BELL: All right. Is it your evidence, sir, that prior to the August 14th luncheon, you had never met this gentleman before?

MR. BARNES: Yes, it is, definitely.

July 7, 1986

MR. BELL: Did you have any other dealings with this gentleman after ---

MR. BARNES: Never met him after that lunch, no.

MR. BELL: Do you know if anybody on your staff or anybody at MITT, which stands for the Ministry, had any dealings with this individual ---

MR. BARNES: Not that I know of, but I mean -- no.

MR. BELL: Did you prepare any written report or memorandum of your luncheon meeting with this individual?

MR. BARNES: No, none.

MR. BELL: All right. Chronologically, sir -- and this again goes back to Mr. Blakeley's evidence -- part of the IDEA material, specifically tab 4 of their material -- I don't know whether you have it before you.

MR. BARNES: I have it.

MR. BELL: It would assist you in following the evidence.

MR. BARNES: Certainly.

MR. BELL: This is a memorandum from Mr. Pat Parikh ---

MR. BARNES: Yeah.

MR. BELL: --- to Mr. Geoff Cannon of September the 9th, 1985, and -- I may have the wrong documents. Hold on. Would you turn to page 4, sir?

MR. BARNES: I'm there.

MR. BELL: The second paragraph under "Recommendations."

MR. BARNES: Yeah.

July 7, 1986

MR. BELL: It's noted Mr. Blakeley wants to review this assessment with Peter Barnes after it is completed.

MR. BARNES: Yes.

MR. BELL: My recollection of Mr. Blakeley's testimony is that he confirmed at least that that was his intention.

MR. BARNES: Yes.

MR. BELL: I don't think he did confirm to this Committee whether or not he did have such a review. Can you tell us, sir, did one occur?

MR. BARNES: He says in his testimony that, in fact, he did assess it with me. In fact, no such assessment took place because I'd left the Ministry by August the 14th.

MR. BELL: I thought it was September the 14th.

MR. BARNES: September the 14th, I'm sorry, September the 14th.

MR. BELL: Your evidence is no such discussions occurred between yourself and Blakeley as for the Wyda Corporation?

MR. BARNES: No. In terms of the assessment of the ---

MR. BELL: Well, in the context of this paragraph.

MR. BARNES: "Was to review this assessment after it is completed." I didn't review it after it was completed, no.

MR. BELL: All right. Did you ask him at any time to keep you informed regarding IDEA's review?

MR. BARNES: Well, as I said, I have great difficulty, and this is quite genuinely, in remembering the specifics of this. I'll accept that I did pass it through. I have no idea what the reference to "backed

July 7, 1986

by prominent people" is. I can think of two reasons why such a comment might have been made. One: I was particularly keen on watching response time on everything we sent through to the IDEA Corporation because of the reputation they got earlier -- not after Mr. Blakeley'd come, I must admit -- for taking a very long time to respond to requests for assistance; and secondly, one of the reasons I may well -- if I raised it with him, which I accept that I did -- have asked for further review is that it was CAD/CAM technology and I was keen on trying to get the IDEA Corporation to work closely with our technology centres to make use of the expertise they had in assessing technologies that they had, probably, the best expertise in the province on. That, again, is my assumption.

MR. BELL: All right. As best you can recall, Mr. Barnes -- we know there's one discussion at least between you and Blakeley, probably in August of '85.

MR. BARNES: One phone call, yeah, apparently.

MR. BELL: Were there any other discussions with Blakeley or anybody else at IDEA, subsequent to that first one, regarding Wyda's application for investment?

MR. BARNES: Not that I have any recollection of at all.

MR. BELL: All right. What is your belief, sir, as to whether any discussions did take place after the first one?

MR. BARNES: My belief is there weren't any.

MR. BELL: Now, a name of one of your former -- I guess staff members is the best word -- Anne Whelan-Griffin, was raised by one of the witnesses last week in the context of Wyda.

MR. BARNES: Context of Wyda or the Cumberland Group?

MR. BELL: I'm sorry. You're right. The Cumberland Group. Can you advise the Committee from

(Mr. Bell)

your knowledge what was the nature and extent of that involvement?

MR. BARNES: Of all of us?

MR. BELL: Of her, specifically, but all of you.

MR. BARNES: All right. Well, I think I'll give you -- I have to sort of treat with the history of this so it's fully understood. The Cumberland Group first approached our ministry and myself in around about January or February of 1985 as a result of work we had been doing to try and establish a chip manufacturing or silicon chip semi-conductor manufacturing facility in the province of Ontario. We'd been looking to Japanese companies. We'd been looking to American companies. We'd been talking to Mitel. We'd been talking to groups in Ottawa regarding this subject; and they approached us with a proposal to develop a chip prototype design manufacturing plant. It was prototype design but, down to, I think, 1.5 micron, which was state-of-the-art technology at that time.

We reviewed this proposal very carefully. We had it vetted by people who knew. We submitted it to BILD and it was given a loan of, I think, \$5.7 million by BILD in April or March. I can't remember which it was. Subsequent to that, we met with the Cumberland Group on regular occasions to discuss, one, the terms under which the loan had been made and to discuss, secondly, the basic approaches that they were taking in terms of the conditions of the loan, such as employing Canadians wherever possible, making use of Canadian equipment -- there wasn't a lot of it -- ensuring that they were proceeding in a direction which would develop the sort of jobs we were looking for in this and making the sort of connections in Canada that would stand Ontario in good stead in this area; and I guess we met, as far as I can remember, on about a monthly basis because that's what I required. We've looked on ourselves something as a loan organization in that sense. We wanted to make sure the money was being spent appropriately and in the agreement.

During the course of this, Cumberland Group

July 7, 1986

indicated that they had a number of other interests and were looking to syndicating some companies in which they had some interests with some other companies, of which Wyda, I'm absolutely certain now, was one, and that they had a whole lot of innovative technology from laser disc to opto-electronics and a bunch of other areas which, frankly, they were unlikely to get pre-venture funding from the private sector, which was precisely why IDEA was set up, so we suggested that they make a proposal to IDEA Corporation, which I believe they did. Now, that proposal, I would guess, was made around about Mayish, Aprilish. May '85, April '85, I would guess, but I really am clutching there. I'm not sure of the exact time.

Once the proposal was submitted, I was meeting with them regularly and they kept telling me that they had heard nothing from the IDEA Corporation on their proposal, and in that context, I would phone Hal Blakeley and say, you know, "What's happening to the Cumberland investments"; and there was some discussion about them being syndication, which we were at that time recognizing was not an appropriate route for IDEA to go, given its past history in that area; and we suggested to them and to IDEA they might like to look at some of the individual projects; and by the time I left in September, there had been absolutely no progress on that, to my knowledge, in the sense that Cumberland Group had got a "yes" or "no" answer; and what we were looking for was an answer, just to get it done with and settled, whichever way. That was up to IDEA Corporation.

About the time I was leaving, we had a last meeting -- or shortly thereafter. I think I came back; I can't remember. I met with them for the last time as part of my official functions and they said they still hadn't heard, and at that time I asked Anne Whelan-Griffin to phone up and find out what was going on; and I gather there was a subsequent phone call after that around about Octoberish, but what happened since then, I had no knowledge till I read the testimony, which indicated that no loan was made to them or no investment was made in them.

MR. BELL: Do you know whether Ms. Whelan-Griffin did make the call that you instructed her to do?

MR. BARNES: I know she made the first call, yes. She told me. I met with her sometime later and I asked her if she'd called up. She said she had.

MR. BELL: All right. Was it your understanding, when you were approached by whomever in respect of Wyda's efforts in August, which culminated in your call to Blakeley ---

MR. BARNES: Yeah.

MR. BELL: Are you with me?

MR. BARNES: Yes, I am.

MR. BELL: Is it your understanding that that effort on Wyda's part was separate and apart from what had gone on there before with Cumberland?

MR. BARNES: Well, I remember Cumberland having Wyda as part of their group. There's no question of that, but I also remember that they did not have the same level of shareholding, and I'm not sure what level of interest they had in it, and I do recall that at one time they said that Wyda was now nothing to do with them, but I can't remember what stage that was. That might have been around about the time of the proposal that was made separately. I suspect it was.

MR. BELL: All right. You've had an opportunity, Mr. Barnes, to review the ---

MR. BARNES: Yes, I have.

MR. BELL: --- IDEA documents, and I wonder if you can -- let's do it this way. Are there any documents in that pile that you had knowledge of ---

MR. BARNES: No.

MR. BELL: --- prior to the commencement of this Committee's hearings, now some two weeks ago, although to me it seems like two years ago? Can you answer that question, sir?

MR. BARNES: No, I consciously did not. Now, the only one -- I've looked at the proposal

or what there is here of it, and I don't remember that coming through me at all, so presumably, it was as a phone call, but ---

MR. BELL: You're referring specifically to tab number 2?

MR. BARNES: To tab number 2, which doesn't look like it's a prospective outline of a business plan, but I'm assuming there's more to it than that.

MR. BELL: Yes, there is. Yes, there is more to it.

MR. BARNES: I mean, most business plans we saw were yea thick.

MR. BELL: Yes. This is just the two pages relevant to this ---

MR. BARNES: Yes, and don't have any conscious memory of those at all, certainly none of the documents subsequent to that.

MR. BELL: You are aware, sir, that certain of the IDEA witnesses that appeared before this Committee spoke in terms of their assessment of telephone calls from or communications from -- I think the phrase was "anybody at Queen's Park."

MR. BARNES: Yes.

MR. BELL: Which they viewed to be pressure of some form. Would you care to comment on that?

MR. BARNES: Yeah. I guess it's a mixture of being depressed and offended, if I can put it that way. I'm offended at the thought that anybody believes that a phone call from a civil servant automatically results from political pressure. I'm fairly proud to say that, at no time when I was working in my previous job, did I ever get any pressure at all from any politician from any party to take a decision in any particular direction on behalf of the IDEA Corporation. I'm proud of that.

What I'm depressed by is the assumption

that, one, when you set up an agency, the people who work in it assume that the money is the same as private sector money, if I can put it that way, not public money, and there is no sense of public accountability on that side, and I guess that speaks to some of the problems of trying to create a corporation like the IDEA Corporation and work it that way.

What I'm offended by is the lack of understanding of government that doesn't recognize that a public servant for an agency that reports to its minister, which is not providing a rapid level of service, which the private sector comes to expect and grumbles about government when it doesn't get it, has the right to phone up and say, "When are you going to deal with this because we're getting complaints about the time taken"; so that sort of context, yes, we made phone calls, and in that extent, it was pressure. It was pressure for competence.

I must say on behalf of Mr. Cannon, Mr. Blakeley, and Mr. Logan that, after their arrival, the sensitivity in terms of responding to the private sector was immensely better than it had been previously, but it didn't alter the fact that we did not want any more complaints and we wanted IDEA Corporation to look as good as it could at the time when it was being reviewed politically for its future, so any comments I have, as I've said, they depress me. They offend me, the thought that a civil servant can't make a phone call without the assumption it's political. I consider myself to be apolitical and my job is to serve whichever government is in power, but I never had any political pressure whatsoever.

MR. BELL: I have to ask you these questions on the record, Mr. Barnes.

MR. BARNES: -Certainly.

MR. BELL: Other than the persons whom you've indicated thus far this evening, did you have any discussions or dealings with anybody in government or in any way connected with government respecting IDEA's investment in Wyda?

MR. BARNES: No.

MR. BELL: One of the issues that this

July 7, 1986

(Mr. Bell)

Committee has determined as appropriate and necessary for it to consider and make decisions on as per this inquiry is: What is the nature and extent of the investment by IDEA Corporation in Wyda and was that investment made at all as a result of political influence?

Now, sir, presuming that you have knowledge of the nature and extent of the investment, I'd like you to answer the second part of that question. Was that investment made at all as a result of political influence?

MR. BARNES: Not of my knowledge at all.

MR. BELL: Those are my questions, Mr. Chairman.

THE VICE-CHAIRMAN: Thank you, Mr. Bell. Questions from the Committee: Mr. Ward.

MR. WARD: Thank you, Mr. Chairman. I just want to touch very briefly on the reference to the Cumberland Group because that has caused some confusion and clouded the issue somewhat. Did I understand you to say that Cumberland Group was, in fact, the recipient of BILD funding?

MR. BARNES: Yes.

MR. WARD: For \$5 million?

MR. BARNES: Yes.

MR. WARD: But that was unrelated to any operation at Wyda?

MR. BARNES: Absolutely unrelated. It was a direct result of the government's initiative to try and establish a chip manufacturing facility. It was quite separate, didn't have anything to do with that. In fact, at the time they made it, I had no knowledge of any other interest they might have beyond the chip foundation.

MR. WARD: And again, I'm not sure of what process. I would assume that, under MITT, for

(Mr. Ward)

innovative ventures or whatever, there was more than one way to access government assistance. There was the BILD Secretariat, for which there really wasn't an application form. There was a process that I don't think that I've ever been able to understand.

MR. BARNES: I think, in terms of the BILD Secretariat, most of the submissions, any submissions I had any contact with came via the Ministry, then went before BILD much as they would go before a Cabinet committee, which it was, and make a proposal.

MR. WARD: And at the same time, you had something like the IDEA, which was set up as ---

MR. BARNES: Quite separately.

MR. WARD: --- as an arm's length corporation.

MR. BARNES: Yes.

MR. WARD: But it's fair to say that, in a way, they're both performing the same function. Is that fair?

MR. BARNES: No, I don't think so. IDEA was very much into investment, as distinct from loans or grants. That makes it totally distinct from any money that BILD put in or any money that the ODC put in. It was completely arm's length from government and it was concentrating on new, innovative technology, which we hoped it would have the skills to assess and be prepared to invest in.

MR. WARD: What would be your approach point in terms of the Cumberland Group? I don't want to make assumptions, but I guess to me, being new around here, I refer to the quick index. I find a listing there somewhere. I call a civil servant in that regard or forward it on to my constituents, so if that's the program you want to pursue, this is where you go.

MR. BARNES: I was very proud of being the first Assistant Deputy Minister of Innovation and Technology anywhere in Canada, I think, and after a

July 7, 1986

short while, I wondered how wise that was after the number of phone calls I got requesting funding support or anything else related to anything remotely connected with technology.

MR. WARD: So contacts would come to you from anywhere and everywhere ---

MR. BARNES: All over the place, regularly.

MR. WARD: --- I assume from members, from the public directly, and ---

MR. BARNES: Without being flippant, this is quite interesting. When I left Community and Social Services, where the job was to help people in need, I was amazed at the number of firms in need who then came to me asking for funding once I went to Industry and Trade.

MR. WARD: The Cumberland application to IDEA or tentative application to the IDEA Corporation: I'm not sure that I understand all the intricacies of the syndication or whatever, but from previous testimony, my recollection is that the Cumberland application that's referred to in the infamous tab 5 memo dealt with six different companies.

MR. BARNES: Yeah, I'll believe that because I think that -- isn't there a -- it's not tab 5.

MR. WARD: I guess what I'm getting at ---

MR. BARNES: Yeah, there were -- Wyda had a number of interests in different technologies and, as I understand it, had set up different companies to deal with ---

MR. WARD: Cumberland or Wyda?

MR. BARNES: Cumberland. Did I say Wyda?

MR. WARD: Yes.

MR. BARNES: I mean Cumberland. I'm

sorry. Cumberland had an interest in a number of different technologies which it had worked with the people who developed or whatever.

MR. WARD: Well, how did they make their money? Did Cumberland ask ---

MR. BARNES: They weren't making much money when they were coming to us. They were looking for the money with which to make money.

MR. WARD: I'm just trying to understand this business process of theirs.

MR. BARNES: Yes.

MR. WARD: I assume, whether they're accessing \$5 million in BILD funds or whether they're trying to access "X" number of dollars in IDEA Corporation funds, they're obviously doing that to make money.

MR. BARNES: Of course.

MR. WARD: And I'm trying to grasp where is their return because, after all, they're not the innovators. Are they not just accessing the money, maybe putting together the financing, and being paid a finder's fee or taking equity or something like that? Is that how it works?

MR. BARNES: I would guess that that's -- I mean, I don't know how it works in Cumberland's case, but let's assume you are an inventor. Please remember, I'm an administrator not an expert in these things, but you are an inventor. You have a product. You know nothing about how to raise money. You don't know who to go to. You don't know who to trust. You don't know whether to go to a lawyer. You don't understand the business world, and unfortunately, that's all too frequent.

MR. WARD: Right.

MR. BARNES: So you go to an organization. You go to somebody who you think can raise some money, can go to the banks, knows how to draw up a prospectus, knows how to do a marketing plan, knows how to do projections; and you work with him and

July 7, 1986

he works with you to try and obtain money.

MR. WARD: Or you go to a consultant like Cumberland Group?

MR. BARNES: You go to all sorts of people. I mean ---

MR. WARD: Like the Cumberland Group.

MR. BARNES: Yes. You might go to somebody like the Cumberland Group. You could go to a lawyer. You could go to -- there are a number of consultants in Toronto who set themselves up to invest money on behalf of people.

MR. WARD: There would be nothing exceptional or unusual ---

MR. BARNES: No.

MR. WARD: --- in the fact, then, that in terms of the entrepreneurial activity of the Cumberland Group or the relationship that they may have with a company like Wyda, like this prototype chip manufacturer, that in return for arranging the financing, whether it be through a government agency or the private sector, that they would take equity as part of that.

MR. BARNES: Absolutely. That would be a perfectly normal process.

MR. WARD: Thank you, Mr. Chairman.

THE VICE-CHAIRMAN: Thank you, Mr. Ward. Mr. Pope.

MR. POPE: Thank you. Do you go for lunch with anyone who phones?

MR. BARNES: No, but I try to respond appropriately to people who I think may have an interest, a role in what is going on in the government and so on and so forth.

MR. POPE: What was appropriate about Mr. Fleischman's invitation to lunch?

MR. BARNES: Well, I think he phoned me up and said that he was down here in Toronto and that he wanted to have some knowledge of the Ministry, that he'd done a lot of work up in Ottawa, and that he was a lawyer who worked with organizations and so on and so forth, and would I like to meet with him? and I said, "Sure."

MR. POPE: Did he also indicate to you on the phone his connections to the Liberal Party?

MR. BARNES: No, but when I had lunch with him, he did describe himself as a "party hack."

MR. POPE: Did he outline any other background?

MR. BARNES: No. He said he'd done a lot of work up in Ottawa, and that was the extent of it.

MR. POPE: Who did you deal with in the Cumberland Group?

MR. BARNES: Now, am I able to quote the names of the people that I dealt with in the Cumberland Group here? I was reading in the testimony there was some issue whether I ---

MR. WILDMAN: Well, they're on the record today.

MR. BARNES: They're on the record today. Fine. I dealt with Leo Gray and Green ---

MR. POPE: Greenberg.

MR. BARNES: Greenberg.

MR. POPE: William David Greenberg.

MR. BARNES: That's right.

MR. POPE: Would it surprise you to learn that Mr. Greenberg was also a director and officer of Wyda?

MR. BARNES: Yeah, I have no idea whether he is or isn't. I have no knowledge of that.

I mean, he was, presumably, on the board of a number of companies they were interested in, but I didn't know that, no.

MR. POPE: Did Leo Gray describe himself to you?

MR. BARNES: He said he was based in New York.

MR. POPE: What else?

MR. BARNES: That he was investing, looking for investments, that he wanted to invest in technology. He wanted to do it in the Toronto area.

MR. POPE: What else?

MR. BARNES: That was about it.

MR. POPE: Did he refer to his family?

MR. BARNES: Oh, you mean his brother?

MR. POPE: Yes.

MR. BARNES: He didn't, but I found that his brother was (inaudible) Gray. He never told me that.

MR. POPE: When did you find that out?

MR. BARNES: Oh, I would guess very early on; probably, Januaryish, Februaryish, whenever they first came to us.

MR. POPE: Of?

MR. BARNES: 1985.

MR. POPE: '85.

MR. POLSINELLI: And he got the money, anyway?

MR. BARNES: Pardon?

MR. POLSINELLI: And he got the money, anyway?

MR. BARNES: Well, we ---

MR. POPE: Yeah, after May 2nd.

MR. BARNES: No, no, the loan was made
-- sorry. After May 2nd, you say?

MR. POPE: Mm-hmm.

MR. BARNES: No, I think it was
March ---

MR. POPE: "Gray area." He said it.

MR. BARNES: I think it was April that
the loan was made, but I'd need to be -- March or
April.

MR. POPE: How about Mr. Greenberg?
Did you meet him?

MR. BARNES: Yes, I did.

MR. POPE: When did you meet him?

MR. BARNES: At the same time as I met
with Mr. Gray.

MR. POPE: How often did you meet with
these gentlemen?

MR. BARNES: As I said, about once a
month to find out -- first of all, to deal with
negotiating the conditions of the loan and then to make
sure and get progress on how that money was being drawn
down and what they were using it for and the progress
they were making in terms of recruitments, and we were
particularly keen to ensure that Canadian people were
involved.

MR. POPE: Who else did you meet with
who said that they were representing the Cumberland
Group?

MR. BARNES: At the very beginning,
Graham Scott.

MR. POPE: Who else?

July 7, 1986

MR. BARNES: Nobody else that I can remember.

MR. POPE: And when did you meet the Cumberland Group with respect to their application to the IDEA Corporation?

MR. BARNES: I tried to remember that. I would think that they first said, you know, "Are we likely to be entertained by IDEA if we put a proposal in" I would think, around about Mayish -- Aprilish, Mayish. That's the best I can tell you.

MR. POPE: So it could have been May; it could have been June; it could have been April.

MR. BARNES: Yeah. I think it was around about May, May or June, but May sticks in my mind as being the most likely time.

MR. POPE: Did you receive any calls from the Cumberland Group?

MR. BARNES: Did I receive any calls? Well, I mean, they phoned me to make a point to come and see me, if that's what you mean.

MR. POPE: Yes.

MR. BARNES: But nothing beyond. I mean, we had the regular meetings. That was the extent of it.

MR. POPE: When did you first meet Mr. Dobzinski?

MR. BARNES: I never met Mr. Dobzinski.

MR. POPE: Did you have any meetings at all with Mr. Blakeley concerning the Cumberland Group?

MR. BARNES: I almost inevitably would have discussed it with him. I was talking to Mr. Blakeley when he was there about, I would guess, three times a week, on average. We were trying to work together and with the committees of the board to try and get together a new business plan and new statement,

so I'm sure I mentioned the Cumberland Group to him, but I don't remember any specific meeting to discuss the details. What I would always do, any investment or contact I had was to ask, "When will it be decided," not how or what.

MR. POPE: You indicate to me -- is you do an assessment of the Cumberland Group's application to IDEA Corporation?

MR. BARNES: We got the business plan and looked at it, but no assessment, no. We were not qualified to assess it in that sense.

MR. POPE: Did you deal with the Cumberland Group when the proposal was turned down?

MR. BARNES: No. I wasn't there then, I don't think. It hadn't been settled by the time I left the Ministry.

MR. POPE: Have you any documents in your possession with respect to either the Wyda application or the Cumberland Group application?

MR. BARNES: I have absolutely no documents in my possession whatsoever. I did phone my successor as Assistant Deputy Minister to find out whether there were any documents on Wyda -- I didn't ask about Cumberland -- on Wyda in my former division, and there are none. I got a phone call back c-saying they'd done the search and there are none.

MR. POPE: You don't know about the Cumberland Group.

MR. BARNES: No. There's bound to be some documentation on the Cumberland Group, I should imagine, but nothing that IDEA wouldn't have, other than on the LSI chip request.

MR. POPE: Have you seen memo number 5?

MR. BARNES: Yes.

MR. POPE: Did you have any discussion about that memo at any time?

July 7, 1986

MR. BARNES: Absolutely not.

MR. POPE: Have you had any meetings with anybody with respect to the evidence you're giving today?

MR. BARNES: No. Well, other than Mr. Bell.

MR. POPE: Yes. Anyone else?

MR. BARNES: I met with Anne Whelan Griffin to ask her about the phone calls and make sure that I got my facts right on that in terms of what I asked her to do.

MR. POPE: Did you ever meet Mr. Caplan?

MR. BARNES: No.

MR. POPE: Have you ever received a phone call from him?

MR. BARNES: No.

MR. POPE: Have you ever received a phone call from anyone in Mrs. Caplan's office?

MR. BARNES: Absolutely not. Well, not in context of Wyda or anything like that. As Community and Social Services, we spoken to Mrs. Caplan's office, but not in connection with this, no, absolutely not at all.

MR. POPE: What was the role of the Ministry vis a vis IDEA Corporation in the brief time that you were associated after the change in government?

MR. BARNES: I guess identical as it was before in the sense that the IDEA Corporation chairman reported to the Minister and through him, responsible. I was a director there. We did obviously supply Mr. Kruger with a fair amount of information and opinion about the IDEA Corporation during his review.

MR. POPE: Did the Minister receive minutes of the meetings?

MR. BARNES: Yes, the Minister would receive minutes. I certainly did and so did he.

MR. POPE: Did he receive copies of the applications?

MR. BARNES: No.

MR. POPE: Were those meeting minutes and any approvals contained in them filed with Cabinet?

MR. BARNES: No, I don't think so, no. It was a Schedule 2 agency.

MR. POPE: Did Anne Whelan-Griffin, in making the phone calls, do so at your request?

MR. BARNES: She certainly made the first one at my request. I'm not sure about the second one.

MR. POPE: You don't know about the second one?

MR. BARNES: No.

MR. POPE: You were a member of the IDEA Corporation Board?

MR. BARNES: From April 1985.

MR. POPE: Right. Until?

MR. BARNES: Well, I guess whenever my order-in-council stopped. In March 1986, would it have been? I think -- tab 1. April the 4th, 1986, but I attended no board meetings after I went to the new Ministry.

MR. POPE: Did you receive documents ---

MR. BARNES: No.

MR. POPE: --- sent to board members?

MR. BARNES: No. No, I told them I wanted nothing to do with the board from that time on.

July 7, 1986

MR. POPE: When you were an active board member, were you getting copies of applications ---

MR. BARNES: I got copies of all the stuff that was put to the board, yes.

MR. POPE: Right.

MR. BARNES: I also got copies of everything prior to being a board member as well.

MR. POPE: Did you get calls from any source outside of the provincial government with respect to either the Cumberland Group or the Wyda application?

MR. BARNES: Nothing beyond what I've discussed. I got calls from Cumberland Group, obviously.

MR. POPE: Yes.

MR. BARNES: But nothing that I can recall, and I've really thought about this one. Again, I would underline that we got an enormous number of proposals put to us and this one had no extra special significance to me beyond the others.

MR. POPE: Can you understand why Daryl Logan would think that it did?

MR. BARNES: Well, as I say, that's the depressing thing for me: the concept that, because a civil servant phones up and says, "When are you going to make your decision? When are you going to deal with this one?" it's immediately assumed as political pressure I find depressing and also a complete lacking in understanding of any -- of government, which I guess is not surprising. They haven't worked in government.

MR. POPE: Well, that may have been what he said before us; that isn't what he put in writing, and if you refer to memo number 5, I repeat the same question.

MR. BARNES: I have nothing to add to my answer.

MR. POPE: Memo number 5 doesn't refer to yourself or ---

MR. BARNES: Not memo number 5, no.

MR. POPE: --- or to any civil servants with the government at all.

MR. BARNES: No. No, but I'm not talking about memo number 5. I'm talking about -- it was his testimony, in his testimony where he said that we were putting pressure on him and he assumed the phone calls were some sort of pressure.

MR. POPE: You don't have any explanation for memo 5, then, other than not understanding.

MR. BARNES: Well, I'm not sure what explanation I should have for memo 5. I mean, the first time I've seen the memo is in here. "I thought you guys might be interested in knowing how Wyda played" -- but I didn't write it. I don't have to explain this memo. No, I don't have any explanation.

MR. POPE: Thank you.

THE VICE-CHAIRMAN: Mr. Pope. Mr. Wildman.

MR. WILDMAN: Thank you. Mr. Barnes, did I understand you to say that, in dealing with the Cumberland Group, you met with Mr. Greenberg and Mr. Gray?

MR. BARNES: That's right.

MR. WILDMAN: They described to you their background, and did you also say that you met with Mr. Graham Scott?

MR. BARNES: Yes.

MR. WILDMAN: Did he need to describe to you his background?

MR. BARNES: No, obviously. I knew him.

July 7, 1986

MR. WILDMAN: Yes. The Cumberland Group first approached you in February '85?

MR. BARNES: January or February '85, yes.

MR. WILDMAN: And at that time, they got a BILD loan of approximately \$5 million.

MR. BARNES: That's correct.

MR. WILDMAN: Now, subsequently, when you were meeting with them on a monthly basis, was there any discussion specifically with you with regard to the components of their syndicate?

MR. BARNES: Well, there was discussions to the extent of the sort of technologies they were talking about, and I remember the chart which showed the companies and the names of the companies, that sort of thing.

MR. WILDMAN: Was there any discussion of the corporate relationships among those companies?

MR. BARNES: No, not specific. What we were interested in was establishing whether or not the sort of technology they were talking about was the sort of thing that would justify us forwarding their proposal on to IDEA Corporation. Look on us as a sort of filter screen, if you like.

MR. WILDMAN: Now, I think you have indicated you don't recall this, but is it fair to say you do not recall referring Wyda to IDEA?

MR. BARNES: I don't recall specifically doing it, but I'm perfectly prepared to believe Mr. Blakeley if he said I passed it on to him.

MR. WILDMAN: And that, in the context of your suggestion to the Cumberland Group that, if IDEA would not fund a syndicate, perhaps various components of that syndicate could contact IDEA ---

MR. BARNES: Yeah, but I do remember -- I mean, obviously, I'm thinking about this very hard, indeed -- at one stage the Cumberland Group saying that Wyda wasn't the same as the other ones in

this. They didn't have the same controlling interest in this. I do remember that.

MR. WILDMAN: But you don't know if Cumberland actually had ---

MR. BARNES: My best guess is that Cumberland were the people who told us about that technology, and it was probably as a result of this and them telling me it was a separate proposal. That's where I think it must have come from. That's my best guess.

MR. WILDMAN: You don't know of any specific benefit that Cumberland would receive if Wyda were to receive funding through any source.

MR. BARNES: No, I don't. Absolutely not, unless they had some level of investment in it. They may have had some minority shareholding in it. I don't know if Mr. Greenberg is on the board. I presume they did have some level of shareholding ---

MR. WILDMAN: Okay. With regard to the memo number 5 and your answers to Mr. Pope.

MR. BARNES: Yes.

MR. WILDMAN: You referred to the first statement and started at the part where Mr. Logan says, "I thought you guys might be interested in know how Wyda played its political connections."

MR. BARNES: Yeah.

MR. WILDMAN: Can you refer to the first phrase of that sentence. "After our experience with the Cumberland Group" -- that's what's missing there, "Cumberland Group."

MR. BARNES: Oh, all right. Yeah.

MR. WILDMAN: "After our experience with the Cumberland Group." Do you have any idea what Mr. Logan would be referring to?

MR. BARNES: Well, I've read his testimony, yes, and his testimony indicates that the phone calls that he got from Anne Whelan-Griffin he

July 7, 1986

interpreted as being political pressure. As I said, I'm offended by that.

MR. WILDMAN: Well, Mr. Cannon also referred to them as "a pain in the rear end."

MR. BARNES: Yeah. Well, I'm sure he did. I guess that anyone -- nobody likes being chased. If I'm correct in my assumption, the Cumberland Group put in their submission in April or May and they certainly hadn't got a reply by September, and I was worried about this because one of the problems that we'd had with IDEA Corporation during its early stages was its inability to take quick decisions and the resultant loss of prestige that it got with its client companies and, generally, with the financial community about its ability to deal with things; and as perceptions are often reality in these sort of situations, I thought it very important that quick answers were given; and my knowledge is that, when people are looking for money, particularly in high technology areas where products come and go very quickly, a "no" answer quickly is better than a "yes" answer a year from now; and that's what I was concerned about, at the concept of service and the concept of government agency not being seen to be overly bureaucratic and too governmental.

Now, I have every sympathy for Mr. Logan and Mr. Cannon because they were operating at a time when the IDEA Corporation's future was uncertain. Its staffing had been cut back, and I think they were heavily overworked, but that still didn't alter the fact that one still expected a certain level of response.

MR. WILDMAN: So yours was an administrative interest rather than a ---

MR. BARNES: Absolutely; totally.

MR. WILDMAN: --- a political one.

MR. BARNES: Absolutely.

MR. WILDMAN: All right. Just one further question. Can you tell me what influence, if any, the information that was provided to you with regard to the background of Mr. Gray or Mr. Greenberg

(Mr. Wildman)

had on you?

MR. BARNES: Absolutely none. I mean, this is January 1985.

MR. WILDMAN: Prior to the change of government.

MR. BARNES: Yes. I mean, frankly, it wouldn't have had any influence at any rate. I mean, we were judging proposals on the value of the proposal, not on who brought it in. We were only interested in the who -- and that wasn't my job -- in terms of management. That was IDEA's job, not mine.

MR. WILDMAN: And just one further matter just for the record: What influence, if any, did the fact that Mr. Scott was involved have on you or other members of the civil service?

MR. BARNES: Absolutely none. It's just ---

MR. WILDMAN: Because after all, that was before the change in government.

MR. BARNES: I agree, and it had absolutely no influence on me whatsoever. I mean, we had been looking two years to get some sort of chip manufacturing capacity in this province, and we were frankly delighted to have what looked like a thoroughly competent proposal which met exactly our needs being put to us. We thought it represented a real chance for Ontario, so the personas are only relevant to the extent that they have a good reputation. Beyond that, I don't give a damn who they're connected to. That's not my job. My job is to look at the concepts.

MR. WILDMAN: And you, again, have never received any calls from anyone, either in any political situation ---

MR. BARNES: I have never received ---

MR. WILDMAN: --- on either Cumberland or Wyda.

MR. BARNES: Never received any

political pressure at all on them. Never.

MR. WILDMAN: Thank you.

THE VICE-CHAIRMAN: Thank you, Mr. Wildman. Mr. Ward.

MR. WARD: Thank you. I want to return, I guess, to your opening dissertation about how different groups and individuals and organizations would make contact with you or with your office with regards to proposals, and I was interested in your comment that Mr. Fleischman described himself as a lobbyist. Is it fair to say that, over the course of your experience and your career, have you ever been contacted by somebody lobbying?

MR. BARNES: I'm sure I have. It's bound to happen to a person in my position.

MR. WARD: Do any specifics come to mind? Any particular names?

MR. BARNES: I'm often contacted for information. In my current job I'm contacted for information all the time. It's not that sort of context. I really don't see it in that context.

MR. WARD: I don't know Mr. Scott's background other than the fact that he was, at one time, a Deputy Minister.

MR. BARNES: Yes, he was.

MR. WARD: What other involvement would he have provincially?

MR. BARNES: He was a -- he worked for the provincial government. It was in that context that I knew him.

MR. WARD: Is he politically involved at all?

MR. BARNES: I can't answer to that, but I understand he is, but I'm not an expert on that. Well, I've read as everybody else has read.

MR. WARD: Didn't describe himself to

(Mr. Ward)

you as a ---

MR. BARNES: He came as lawyer, I think from the same ---

MR. WARD: --- Conservative hack.

MR. BARNES: No, he didn't. He came as a lawyer from the same firm as Mr. Greenberg, I think, if I remember rightly.

MR. WARD: He was involved, though, in the BILD application on behalf of the Cumberland Group.

MR. BARNES: Yes, on the LSI, the chip application.

MR. WARD: Thank you.

THE VICE-CHAIRMAN: Thank you, Mr. Ward. Any further questions from the members of the Committee?

MR. PHILIP: I take it there were no New Democrats.

THE VICE-CHAIRMAN: Not yet.

MR. PHILIP: Sorry. I just felt a little left out.

THE VICE-CHAIRMAN: Mr. Pope.

MR. POPE: Mr. Cannon, in his testimony, which you've indicated you read, indicated that the MITT was involved in an investigation on Wyda. Do you know anything about that?

MR. BARNES: No. I saw at one state he talked about the CAD/CAM centre doing an assessment. Is that what he was referring to?

MR. POPE: I'll refer you to the July the 3rd, 1986, transcript, page 51.

MR. BARNES: I'm sorry. I don't have a copy of it.

July 7, 1986

THE VICE-CHAIRMAN: It's on its way.

MR. BARNES: Thank you very much,
indeed. Page?

MR. POPE: 51.

MR. BARNES: 51.

MR. POPE: Sorry, that's the evening
sitting.

MR. BARNES: No -- July the 3rd
evening sitting. There's no evening.

MR. POPE: Page 51, evening. Quote
Mr. Cannon: "To the best of my recollection, he said
that he was involved with others from MITT on the
start-up of the investigation on Wyda, but I don't
think he mentioned any specific names to me."

MR. BARNES: Is that Mr. MacKinnon?

MR. POPE: The reference to "he" is to
Mr. MacKinnon. There's a specific reference to "others
from MITT."

MR. BARNES: No, but Mr. MacKinnon --
isn't he now the chap in charge of the ODC?

MR. POPE: Yes.

MR. BARNES: Oh, that's long after I
left. I have no knowledge of that at all. I'm sorry.

MR. POPE: You don't have any
knowledge of the MITT investigation?

MR. BARNES: None at all. No,
absolutely not.

MR. POPE: You weren't consulted with
about it?

MR. BARNES: No.

MR. POPE: Well, you were involved at
the time. Don't you find that strange?

MR. BARNES: Frankly, I didn't even remember I was involved at the time, as I've told you, so frankly, no. I mean, if I can't remember, I doubt if anybody else would know. There's no record of my involvement at all.

MR. POPE: Well, your name has been referred to at ---

MR. BARNES: Yeah, by Mr. Cannon.

MR. POPE: Right, by the IDEA Corporation staff.

MR. BARNES: That's right.

MR. POPE: There was an investigation going on at MITT. Why wouldn't they call you and ask you for your recollection?

MR. BARNES: I can't honestly answer that. I wasn't called. I have no knowledge of it at all.

MR. POPE: Thank you.

THE VICE-CHAIRMAN: Thank you, Mr. Pope. If there are no further questions, I might just ask one or two, if I may.

MR. BARNES: Yes, Mr. Chairman.

THE VICE-CHAIRMAN: Mr. Barnes, were you contacted concerning the preparation of the Premier's statement to the House at all?

MR. BARNES: Sorry. What statement?

THE VICE-CHAIRMAN: The Premier made a statement in the House after the question had arisen.

MR. BARNES: No.

THE VICE-CHAIRMAN: You were not.

MR. BARNES: No.

THE VICE-CHAIRMAN: At any time.

July 7, 1986

MR. BARNES: The first knowledge I had of any involvement at all is when, I think, I got a call from Mr. Arnott, I think, saying that I was going to be called in evidence. This was the first contact I had or knowledge I had of any involvement whatsoever.

THE VICE-CHAIRMAN: At any time prior to this matter being raised in the House, did you ever discuss this matter with Mr. Kruger?

MR. BARNES: No.

THE VICE-CHAIRMAN: Anyone else in the Premier's or Cabinet office?

MR. BARNES: The Wyda matter, no. Absolutely not. No.

THE VICE-CHAIRMAN: Absolutely.

MR. BARNES: No.

THE VICE-CHAIRMAN: Okay. Thank you. If there are no further questions, we thank you, Mr. Barnes for your testimony.

MR. BARNES: Thank you, Mr. Chairman. Thank you, Mr. Bell.

MR. BELL: Thank you very much.

THE VICE-CHAIRMAN: The next witness is Mr. Pat Parikh. He is present? Mr. Parikh?

MR. BELL: He's just out in the hall, I think, with his counsel.

THE VICE-CHAIRMAN: Perhaps we'll take a two- or three-minute break until the IDEA people come in.

---Brief recess.

9:30 p.m.

THE VICE-CHAIRMAN: The next witness to appear is Mr. Pat Parikh. Mr. Parikh?

MR. PARIKH: Yes.

THE VICE-CHAIRMAN: Thank you, sir. Now we've lost counsel. If you'll just be patient for a moment or two, gentlemen, and we'll be right under way. Perhaps I could get the Clerk to administer the oath, Mr. Parikh.

Mr. Parikh sworn.

MR. BELL: Mr. Parikh, before I begin with questions, as I'm sure it's been explained to you by counsel for IDEA Corporation, your name and your involvement was discussed by other IDEA people last week when they appeared before the Committee, and the purpose of your attendance this evening is to get from you directly, sir, the nature and extent of your involvement, and I propose, in reviewing that with you, to have you have before you the "IDEA documents," so-called; and I'm going to go through a number of those documents with you and just review matters.

Would you turn to tab number 2. First of all, would you indicate for the record, sir, what's your position at Wyda during the material times of this inquiry; that is, August 1985 to June 30, 1986, what your position was within the company?

MR. PARIKH: I was ---

MR. BELL: I'm sorry -- IDEA. I have done that before and I'll do it again.

MR. PARIKH: I was senior manager in the company.

MR. BELL: I beg your pardon.

MR. PARIKH: I was a senior manager in the company.

MR. BELL: With what specific responsibilities, sir?

MR. PARIKH: Well, responsibility of looking and reviewing investments incoming proposals, and also I was involved in another program which had to do with universities.

MR. BELL: All right. We have heard from other witnesses that -- and I know I'm oversimplifying it, but there was a group of people

July 7, 1986

(Mr. Bell)

that were under Mr. Cannon's direct supervision and control and there were a group of people that were under Mr. Logan's direct supervision and control. Where were you?

MR. PARIKH: At the beginning of the period in which this proposal came in, I was working with Mr. Cannon.

MR. BELL: And did you subsequently move over to work with Mr. Logan?

MR. PARIKH: That's right.

MR. BELL: Did that shift have anything to do with Wyda's application?

MR. PARIKH: No.

MR. BELL: Would you turn to document number 2, sir? Do you have that?

MR. PARIKH: Yes.

MR. BELL: We have heard from other witnesses that this document was reviewed among others by you on or about the date or shortly after the date that it was received. Can you confirm that?

MR. PARIKH: Yes, sir.

MR. BELL: Can you tell us more precisely when you did first receive and review that document.

MR. PARIKH: It was in my in-basket on August 16th.

MR. BELL: From whom?

MR. PARIKH: Came through the secretary of Mr. Cannon, but it was in my in-basket. I don't know who personally brought it, whether it's the mail boy or ---

MR. BELL: No, I mean who directed it be sent to your in-basket.

MR. PARIKH: It was Mr. Cannon.

MR. BELL: And what did you do with this document when you received it?

MR. PARIKH: I did exactly what I had been doing for the last three years. I had worked for IDEA since July '83. I looked at the proposal quickly to just try to understand what the proposal was all about, and you know, decided in my own way, certain criterions for investment, what I had to do in order to go further.

MR. BELL: All right. If I may just take you forward a little, would you turn to tab number 4? Do you have that document?

MR. PARIKH: Yes.

MR. BELL: Can you confirm that that is a memorandum prepared by you on or about its date?

MR. PARIKH: That's right.

MR. BELL: Does that represent what you did with the proposal after you received it?

MR. PARIKH: Yeah. That was my first cut of the proposal.

MR. BELL: All right. Can we flip back to two for a moment and would you turn to the second page of the Committee's material, and you'll see under article 10.0 there is a reference to Mr. Caplan. Do you see that?

MR. PARIKH: Yes.

MR. BELL: Does that represent the first time that you became aware of Mr. Caplan's association with Wyda Corporation?

MR. PARIKH: That's right.

MR. BELL: Would you turn to the next document? This is a resume of Mr. Caplan. The next document in this part -- do you have that?

MR. PARIKH: Yes, sir.

July 7, 1986

MR. BELL: Does that represent, when you reviewed this document, the first time that you became aware of the detail of Mr. Caplan's resume as set out there?

MR. PARIKH: That's right.

MR. BELL: All right. Did you subsequently become aware of Mr. Caplan's association with Elinor Caplan?

MR. PARIKH: Subsequently, much later.

MR. BELL: All right. When was that "much later" or do you want to wait till we go through it?

MR. PARIKH: I would have to think about that.

MR. BELL: All right. Turn to item number 4, sir. The second page of that document -- are the three paragraphs that you have set out here as per Mr. Caplan -- does that information come solely from the content of the business plan, tab number 2?

MR. PARIKH: Did hear that you said three paragraphs on the ---

MR. BELL: Page 2 of the September 9th memorandum.

MR. PARIKH: Yeah.

MR. BELL: You have three paragraphs under Mr. Wilfred Caplan.

MR. PARIKH: That's not -- my interpretation is there was only one paragraph under Mr. Caplan. I guess there is a typo or another problem ---

MR. BELL: Don't worry. Whatever is under Mr. Caplan.

MR. PARIKH: That's one paragraph.

MR. BELL: All right. Did the information in that section come entirely from the

(Mr. Bell)

information you reviewed in the business plan, tab number 2?

MR. PARIKH: Absolutely.

MR. BELL: All right. The last sentence of that paragraph at page 2, you indicate something. You attribute some information as to by whom it's controlled to Wyda. Did that come from their business plan?

MR. PARIKH: No. It was just the name of the company itself puzzled me. It says, "Wyda Systems Canada Incorporated"; and in the previous three years, we had some problems with companies with "Canada Incorporated" because one never knows whether the company's of Canadian origin, and our mandate was to invest in companies particularly Canadian, Ontario-based companies, so I was particularly perturbed about the name and I was going to check up into that.

MR. BELL: Well, you indicate in the last sentence that you plan to obtain further clarification regarding ownership. My question is did you and what was the result of that effort?

MR. PARIKH: The result of that effort was that they confirmed to me that this was strictly Canadian company and also that it was a Ontario-incorporated company to me.

MR. BELL: What was the nature of your inquiry in that regard? What did you do to satisfy yourself?

MR. PARIKH: I asked the president of the company about clarification and, somewhere along the line in this thick file we have, he confirmed that, yes, it was, and I took his word for it.

MR. BELL: And this was a discussion sometime after September the 9th.

MR. PARIKH: That's right.

MR. BELL: All right. Would you turn to page 4 of that memorandum, sir, under item 8, "Recommendations." Do you see that?

July 7, 1986

MR. PARIKH: Yes, sir.

MR. BELL: I'm going to use my terminology again: the second paragraph, starting, "Apparently this company." Do you see that?

MR. PARIKH: Yes, sir.

MR. BELL: I beg your pardon.

MR. PARIKH: Yes, I see it.

MR. BELL: All right. Is - the conclusion as for the backing of that company, first of all -- is that your conclusion?

MR. PARIKH: I used the word "apparently" to suggest that it was a speculation on my part. It's not a conclusion. My conclusion was the Mr. Blakeley wanted to review this assessment with Mr. Peter Barnes after it was completed.

MR. BELL: Okay. Let's hold on that for a moment. Let's just talk about the first phrase. Whatever you describe it, what was the basis of your description of the persons who backed this company?

MR. PARIKH: I was told that, amongst some of the financiers, there was a gentleman by the name of Mr. Leo Gray, who I have heard had relationship working with the federal government for ten years, so I knew that he was a prominent person and prominent financier.

MR. BELL: And who told you that?

MR. PARIKH: One of the venture analysts at IDEA.

MR. BELL: Who was that, sir?

MR. PARIKH: I think it was Bruno Maruzzo.

MR. BELL: Can you recall the circumstances of that discussion with that gentleman before you prepared this memorandum?

MR. PARIKH: The only thing I can

recall is that I had talked to Bruno, being he was of a technology person, and even though I was the project manager for the proposal, I kept him informed about what I was doing and got his reactions in terms of the technology, and in that process, somewhere along the line, he told me about the fact that this was a company that was backed by prominent people.

MR. BELL: All right. You've indicated ---

MR. PARIKH: It did not make any difference to me.

MR. BELL: Sir, I'm not suggesting otherwise. I'm just trying to get the facts as you know them and can recall them. Did he indicate any other name than the individual whom you've just mentioned?

MR. PARIKH: I'm not sure, but I think there may have been a mention of the Cumberland Group.

MR. BELL: All right. I guess my question should be: How many people were you referring to in the phrase "prominent people"?

MR. PARIKH: I'm just thinking. The prominent people in my mind were financiers like Mr. Gray, but I don't have all the names because I did not know and Mr. Blakeley had not told me about it.

MR. BELL: Was Mr. Caplan one of the prominent people you were referring to in this sentence?

MR. PARIKH: No. I was not. I was not referring to Mr. Caplan. I was referring to financial people, people who would make investments in other companies.

MR. BELL: All right. Now, the next part of that sentence, starting, "Harold Blakeley wants to review this assessment with Peter Barnes after it is completed." Who told you that?

MR. PARIKH: Mr. Blakeley.

MR. BELL: When?

July 7, 1986

MR. PARIKH: Sometime during that early September '85.

MR. BELL: Did he tell you why he wanted to do what's indicated in this sentence?

MR. PARIKH: No.

MR. BELL: Did you ask him?

MR. PARIKH: No. He was the boss.

MR. BELL: Good answer. The last sentence: "He asked me to keep him informed regarding our review." Did you do that?

MR. PARIKH: Yeah.

MR. BELL: Do you know if he did review that assessment with Mr. Barnes?

MR. PARIKH: I do not know that.

MR. BELL: Did you ever ask him?

MR. PARIKH: No. I normally don't ask my boss what he does.

MR. BELL: All right. Another good answer.

MR. PARIKH: Thank you.

MR. BELL: This is the period up to March the 6th, 1986, Mr. Parikh. This is the time frame for the next question I'm going to ask you. Did you discuss that paragraph with anybody else at IDEA other than Mr. Maruzzo and Mr. Blakeley?

MR. PARIKH: Not that I remember.

MR. BELL: The next sentence, you say, "Perhaps this project should be handled by the Innovation Assistance Department." Why did you make that comment?

MR. PARIKH: Because, about a few months before this, IDEA was completely reorganized and we had two groups. One was the group that Mr. Cannon

was supervising and another one was the one that Mr. Logan was supervising, and Mr. Logan was supervising the conceptual early concepts that came from university professors and entrepreneurs; and it seemed to me that, since this was a very highly conceptual, very brilliant project, that it fell more in Mr. Logan's department than some of the investments Mr. Cannon was making in existing situations.

MR. BELL: All right. Am I correct that, up to the time you prepared this memorandum, you had one discussion with Wyda's president?

MR. PARIKH: Yes, but over the phone.

MR. BELL: All right. Is that the only communication with Wyda that you had other than the receipt of the business plan in tab 2, up to that point in time?

MR. PARIKH: Yes, sir.

MR. BELL: Now, I understand that there was, subsequent to your memorandum, a meeting arranged at the offices of Wyda, and I believe the evidence is correct it was a meeting that Mr. Maruzzo and you attended at Wyda's offices, sometime, I believe, around October the 3rd. Can you confirm that?

MR. PARIKH: Yeah. I arranged that meeting. I wrote to Mr. Dobzinski, the president of Wyda, and said that I would be coming over at 9:00 on October 3rd, and Mr. Maruzzo would be accompanying me.

MR. BELL: What was the purpose of that meeting?

MR. PARIKH: The purpose of the meeting for me to go to the next stage of our screening process. The first document that I prepared in September was strictly what I found without spending a lot of time reviewing the business plan that was sent to us. From there on, I was going to proceed to make further detailed assessment of the proposal, and since I had to go and go to -- this was a normal routine we had with all the proposals. If it passed through the first hurdle, then you would go to the next step of going and visiting the person who sent us the proposal, his organization, review his organization, try to

July 7, 1986

understand more.

MR. BELL: Do you, as a matter of practice, follow a set procedure for such a first meeting? In other words, are there certain minimum things which you want to do and you want to discuss with the people with whom you meet?

MR. PARIKH: Yes. You get a feeling when you've seen so many proposals. Like, I must have seen over 2,000 proposals in three years, so you get a feeling about what you really were looking for, what are weak areas, what are the strong areas in the proposal; and so you set up, you know, certain questions; and the reason I took Mr. Maruzzo with me and said to Mr. Dobzinski I was going to take him was I felt that I had to first get a clear idea of whether this was somebody's dream or was this a reality, whether there was some merit in this concept of the technology.

MR. BELL: And from your standpoint, sir, what did you want to accomplish by this meeting?

MR. PARIKH: Well, my own personal target was to assess Mr. Dobzinski as an entrepreneur, whether he, to me, represented somebody who could bring this company to the glory that he had represented us in his business plan, which was rather ambitious.

MR. BELL: How long did you spend at Wyda on that day?

MR. PARIKH: I think we broke up around 2:00.

MR. BELL: And what time did you start?

MR. PARIKH: Nine o'clock.

MR. BELL: Whom did you meet with?

MR. PARIKH: Mr. Dobzinski and his executive assistant, a lady whom I had been talking to before over the phone about making arrangements and making sure that, you know, we were coming.

MR. BELL: Did you meet with Mr.

(Mr. Bell)

Caplan that day?

MR. PARIKH: No.

MR. BELL: Did you ask to see Mr. Caplan that day?

MR. PARIKH: No. I had no reason to.

MR. BELL: Was Mr. Caplan discussed that day?

MR. PARIKH: Not that I recall.

MR. BELL: Would you turn to tab 7 of the IDEA material, Mr. Parikh, and again, do you have that document?

MR. PARIKH: Yes, sir.

MR. BELL: And again, can you confirm that this is your memorandum prepared by you on or about its date?

MR. PARIKH: That's right.

MR. BELL: Does it represent the extent of your efforts up to that point in time as per Wyda's application?

MR. PARIKH: That's right.

MR. BELL: Are you able to assist: Between the October 3rd meeting that you told us about and January the 6th, when you prepared this memorandum, how many meetings did you have with Wyda?

MR. PARIKH: I had two meetings with Wyda and perhaps many phone calls with Mr. Dobzinski.

MR. BELL: How many meetings did you have in that interval with Mr. Caplan?

MR. PARIKH: None.

MR. BELL: How many discussions did you have in that interval with Mr. Caplan?

July 7, 1986

MR. PARIKH: None.

MR. BELL: Could you turn to the fourth page of this memorandum?

MR. PARIKH: Yes.

MR. BELL: Under the heading, "Financial Plan." Do you have that?

MR. PARIKH: Yes, sir.

MR. BELL: Well, I'll wait until you get to it. Do you have that page 4?

MR. PARIKH: Yeah.

MR. BELL: It's been the evidence, I believe, of Mr. Logan that, under the three items of information that IDEA, or you as the author of this memorandum, were waiting upon. Mr. Caplan was to provide that information for the first two. Are you with me?

MR. PARIKH: Yes.

MR. BELL: That is benefit cost analysis and detailed assumption of the financial forecast, and you'll see at the bottom of this financial plan part the reference to Mr. Caplan answering some of these questions next week. Do you know, did anybody at IDEA make a specific request directly of Mr. Caplan before your memorandum for that information?

MR. PARIKH: Not that I know of.

MR. BELL: Your evidence is that you didn't.

MR. PARIKH: Yeah. My talks were with Mr. Dobzinski, the president, and he said that these questions that I was raising, only Mr. Caplan could answer.

MR. BELL: Is that how Mr. Caplan's name came to be associated with this information by you?

MR. PARIKH: That's right.

MR. BELL: Was that a meeting or a telephone conversation that you had with Mr. Dobzinski in that regard where Mr. Caplan's name was raised, if you know?

MR. PARIKH: I think that that was a meeting with Mr. Dobzinski, and I think at that time perhaps I was introduced to all the people in the Wyda Corporation, all the key people, all the technology people and all the other people.

MR. BELL: And that was a meeting at the Wyda offices?

MR. PARIKH: Yeah.

MR. BELL: Were you introduced to Mr. Caplan at that meeting?

MR. PARIKH: Yeah, and Mr. Dobzinski said, "Parikh has all these questions and you two get together and answer his questions."

MR. BELL: Did that meeting occur, sir, before or after the new year?

MR. PARIKH: After the new year.

MR. BELL: Did you, at that meeting have any specific discussions with Mr. Caplan?

MR. PARIKH: Oh, yes.

MR. BELL: What did those discussions relate to?

MR. PARIKH: Related, basically, to the three points that I raised about the assumptions of the financial forecast and how come Wyda was defining the general financial roots of a growing business, because it was very strange, the financial forecast.

MR. BELL: And what did Mr. Caplan say to you in that regard?

MR. PARIKH: Well, he gave me a whole list of the assumptions and explained to me why they

July 7, 1986

did not need more money for growing the way they were going to grow; and I got a feeling that he was basically taking information as far as forecasts, sales forecasts, were concerned from marketing group and, as far as the expenditures and the financial information from Mr. Dobzinski and that he was really not making those decisions himself. He was relying on those people and he was just co-ordinating the financial planning.

MR. BELL: When did Mr. Caplan answer some of these questions, as you indicate in your January 6th memorandum?

MR. PARIKH: Sometime around January 20th.

MR. BELL: Was that done in a meeting or in telephone discussions?

MR. PARIKH: No, no. It was in a meeting.

MR. BELL: And where did that meeting take place?

MR. PARIKH: As far as I remember, I went to Wyda.

MR. BELL: Did anybody else go with you?

MR. PARIKH: No. This was strictly my questions, so I didn't have anybody go with me.

MR. BELL: Did you meet only with Mr. Caplan?

MR. PARIKH: For this, yeah. This was strictly a meeting related to understand the forecast that they had sent us and what was the logic behind them and what were the weaknesses.

MR. BELL: And as a result of the information he gave you, did you then gain an understanding that you didn't have before?

MR. PARIKH: That's right.

MR. BELL: And what did you do with that understanding?

MR. PARIKH: I came to the conclusion that the forecasts were very optimistic, and therefore, I decided that -- by that time we had the technology assessment done. It was a very positive report by the CAD/CAM centre, Ontario Government CAD/CAM centre, so I felt a definite need for getting a market assessment so that we're making sure nobody was dreaming in technicolour.

July 7, 1986

MR. BELL: Another good answer. Sir, I neglected to refer you to Tab Number 5 in this material. Would you turn to that Tab? When did you first see this document?

MR. PARIKH: I think this morning?

MR. ARMSTRONG: Before today, or just today?

MR. PARIKH: Just today, today.

MR. BELL: All right. Did you ever have any discussions with either of Messrs. Blakeley, Cannon or Logan about the content of this document, before today?

MR. PARIKH: No.

MR. BELL: Now, would you turn to Tab Number 9, sir? Now, that has been identified already as the Venture Summary that was prepared for the Board of Directors meeting to consider the investment by idea in the Wyda Company, and there are certain extricated sections, and I won't--I don't intend to deal with those, but did you have a hand in the preparation of this document?

MR. PARIKH: I did it all. I spent four Saturdays and five Sundays, in total.

MR. BELL: That is a hand. Prior to the preparation of that document, now, have you told us about all of your meetings or dealings with Mr. Caplan?

MR. PARIKH: More or less.

MR. BELL: All right. Are you able to indicate, sir, whether any of the information or material given to you by Mr. Caplan is contained in this document?

MR. PARIKH: As you said, there is a lot of portions of this document have been taken out, and it is kind of difficult---

MR. BELL: And I don't want you to disclose those, but I guess, from your best recollection of what those blanks are.

MR. PARIKH: I think as I have suggested, I was not impressed with the financial forecasting in terms of the reality of life, and so, some of the missing portions compare what Wyda had proposed in terms of reaching their targets, sales targets, and revenue targets, and expenditure targets, and I had

developed myself a model, based on a successful company, in a similar business, and so basically, I discounted most of the stuff that Mr. Caplan had given me, and I had developed my own scenario of what Wyda would look like, which is what you have presented to the Board.

MR. BELL: All right. You will agree with me that this Venture Summary recommends an investment of what, in Wyda; correct?

MR. PARIKH: Yes.

MR. BELL: And does it recommend an investment in Wyda, subject to certain conditions, of \$3,000,000?

MR. PARIKH: That is right.

MR. BELL: Now, can you help the Committee; as far as you and/or Mr. Logan are concerned, when did you formulate, in your minds, the substance of that recommendation?

MR. ARMSTRONG: Well, first of all--excuse me--did you, were you involved in the formulation of that?

MR. BELL: All right, that is a fair question; were you involved in the formulation of---

MR. ARMSTRONG: ---of the final sum?

MR. BELL: ---the recommendation before this document was prepared by you?

MR. PARIKH: I was involved in the ballpark investment figure, right from day one, even before Mr. Logan came to the picture, on this one.

MR. BELL: No, I want you to understand very clearly and carefully my question; the decision to recommend an investment in Wyda, are you with me?

MR. PARIKH: Yes.

MR. BELL: Were you part of that decision to recommend?

MR. PARIKH: Yes, that was my decision.

MR. BELL: Did you formulate that decision, and then communicate that in some way to Mr. Logan?

MR. PARIKH: Yes, by Venture Summary.

July 7, 1986

BELL: All right. When did you formulate that as my first question?

PARIKH: Well, about a couple of weeks before finalized.

BELL: Would it be, for sake of---

PARIKH: Two or three weeks before that document d.

BELL: Well, for sake of a date, can we say the January?

PARIKH: That is a good date.

BELL: All right. When did you communicate that ?

PARIKH: There was no written communication. It discussion. We had a good technology assessment; d market assessment; the revised financial forecast ense; we would have a good return on investment, were going to have a Board Meeting in February, it.

BELL: All right, but when did you have that ith Mr.---

PARIKH: Sometime in January, you know, end of ly--you see, that is when I ended up working d Sundays. Sometime about the third week of

BELL: From the time you formulated that decision recommendation, as in the Venture Summary, did il you prepared the Venture Summary? Or, let's until its date, February the 12th, did you have etings or discussions with Mr. Caplan?

PARIKH: Not me.

BELL: Do you know if anyone else did, at IDEA, short interval?

MR. BELL: All right, I don't want you to speculate.

MR. PARIKH: Okay.

MR. BELL: All right, were you in attendance at-- well, first of all, what did you have to do with the preparation of the February 19th Board agenda, if anything?

MR. PARIKH: Nothing.

MR. BELL: All right. Did you understand that your Venture Summary was going to be considered by the Board on February the 19th?

MR. PARIKH: Not then.

MR. BELL: All right. It wasn't considered then, but it was considered on March the 6th?

MR. PARIKH: That's right.

MR. BELL: All right. Were you in attendance at that meeting?

MR. PARIKH: In the March, yes.

MR. BELL: On March the 6th?

MR. PARIKH: Yes.

MR. BELL: And, can you recall in that meeting when during the preparation, Mr. Logan made reference to Mr. Caplan, and his association with Elinor Caplan?

MR. PARKIH: Yes.

MR. BELL: Does that represent the first time that you became aware of that association?

MR. PARIKH: No, I became associated about---

MR. BELL: No, you became "aware".

MR. PARIKH: ---aware. Somewhere along the line, in the Globe and Mail there was an article about Mrs. Caplan, and that was my knowledge of the association.

MR. BELL: And when did that occur?

MR. PARIKH: I don't have a date. Sometime---

July 7, 1986

MR. ARMSTRONG: Well, don't guess.

MR. PARIKH: You know, sometime in early '86, I would say.

MR. BELL: Well, before or after the last day of January?

MR. PARIKH: Oh, I couldn't tell you that. We were quite popular, and there were so many articles coming in the Globe and Mail.

MR. BELL: Who was--well now, don't lead me into that. Can you recall, sir, when--can you recall with some precision the date that you became aware of that association?

MR. PARIKH: I cannot tell you with any precision.

MR. BELL: Okay. Now, can you turn to Tab Number 15. Mr. Logan testified this his note, and I am interested only in the very first item, as for the advance, and his reply in the negative on the 19th of March '86.

And my question; did you have any discussion with Mr. Logan, respecting this exchange between him and Mr. Caplan?

MR. PARIKH: Yes, he mentioned to me, sort of, in passing, that there was a request, and what did I think.

MR. BELL: And what did you tell him?

MR. PARIKH: I said we shouldn't.

MR. BELL: Did you know from Mr. Logan, or otherwise, what the intended use of the money was?

MR. PARIKH: No, I did not know the details.

MR. BELL: All right. Would you turn to the next Tab, sir, Number 16. First of all, let me ask you; were you involved at all, from March the 6th, until April the 18th, the closing of the deal; were you involved at all in that process; the implementation of the Board's decision?

MR. PARIKH: I was not involved.

MR. BELL: At all?

MR. PARIKH: I was not involved at all.

MR. BELL: All right.

MR. PARIKH: In implementation, as far as the negotiations with Wyda.

MR. BELL: Were you involved at all in the circumstances around the exercise by IDEA of the option for the second part of the financing?

MR. PARIKH: I only found out about it, as a sort of a-- I was not involved. I only found out about it, after it happened.

MR. BELL: All right. Were you in attendance at the February 19th meeting of the IDEA Board, when Mr. Kruger attended to announce the cabinet's decision as for the future of IDEA?

MR. PARIKH: I listened to Mr. Kruger. Whether he talked to somebody else before that, I do not know. But, Mr. Kruger came and told us about it--and I was there.

MR. BELL: And that was the February 19th meeting?

MR. PARIKH: Yes.

MR. BELL: Do you recall a question being asked by someone from IDEA, I believe Mr. Blakeley, about the status of proposals for investment, that had not been considered then by the IDEA Board?

MR. PARIKH: Yes.

MR. BELL: All right. Can you recall what Mr. Kruger indicated at that meeting? Or, what your understanding was of what he indicated?

MR. PARIKH: I recall him saying that until June 30th, the business, as usual, would continue, except for anything totally new.

MR. BELL: All right. Was it your understanding that the IDEA--the proposal for investment in Wyda was something that IDEA could proceed to process, as per your Venture Summary?

MR. PARIKH: That is right.

MR. BELL: All right. Did you know, or have any understanding as to the source of IDEAs funds for that investment?

MR. PARIKH: Do you mean the Innovation Fund?

MR. BELL: Well, where the money was going to come from?

July 7, 1986

MR. PARIKH: Yes.

MR. BELL: Did you have an understanding of where that was?

MR. PARIKH: Yes.

MR. BELL: What was it? Or, where was it, from your understanding?

MR. PARIKH: Well, we have a fund, an Innovation Fund, where such projects--money for such projects came out of.

MR. BELL: And, was it your understanding that there were funds sufficient there, for the Board to exercise its discretion to invest the \$3,000,000?

MR. PARIKH: Oh, yes.

MR. BELL: Okay. Now, you may need some assistance from Mr. Armstrong to answer this question; other than what you have told us, up until March the 6th, 1986, the date that the Board approved the investment, did you have discussions with anybody in or connected with government, respecting Wyda's--respecting the matter of IDEA's investment in Wyda?

Up until March the 6th, 1986, did you have any discussions or dealings with anybody in or connected with government, respecting the investment by IDEA in the Wyda Corporation?

MR. ARMSTRONG: Other than what you have already said.

MR. BELL: Other than what you have already told this Committee thus far this evening.

MR. PARIKH: When you mean "government", you mean the rest of the government, Ministry, or--no, I had no--I had no contact, or discussions.

MR. BELL: Did you have discussions with--other than those that you have described, or that you may have had, with persons within the Wyda Corporation, and with persons within the IDEA Corporation, including the two consultants retained? Are you following me thus far?

MR. ARMSTRONG: I am afraid I am not.

MR. BELL: All right; other than any discussions that you may have had with the following persons; those within the

Wyda Corporation; those within IDEA Corporation, your colleagues, including the two consultants that you retained for the purpose of assessing; and other than legal counsel that may have been retained by either of IDEA or Wyda; other than that class of individuals, did you have any other discussions with anybody, respecting this investment?

MR. PARIKH: Yes.

MR. BELL: Who?

MR. PARIKH: I had contacted a lot of people I know in the Venture Capital community to interest them to invest the balance of the monies that Wyda required, and I had sent out half a dozen business plans to various people that I had screened out from the Venture Capital, and so I was in touch with them, and trying to get their reaction, trying to get them interested, letting them know what was happening at IDEA, in terms of our involvement.

MR. BELL: I see. Is it accurate to say that those efforts that you made did not result in the acquiring of Venture Capital from those sources?

MR. PARIKH: Yes.

MR. BELL: Those are my questions, Mr. Chairman.

THE VICE-CHAIRMAN: Thank you, Mr. Bell. Mr. Pope?

MR. POPE: You indicated you knew Leo Gray from federal government days?

MR. PARIKH: Mr. Herb Gray.

MR. POPE: Oh, I'm sorry.

MR. PARIKH: He was our minister when I was in the federal government for two years.

MR. POPE: He was your minister?

MR. PARIKH: When I was with Industry, Trade and Commerce in Ottawa. Before I came to IDEA, I was working for the federal--I am a career public servant.

MR. POPE: Yes, and Herb Gray was your minister. I wasn't asking about Herb Gray at all. What I was asking about was Leo Gray, who we were talking about as part of the Cumberland Group, and you replied that you knew Leo Gray

July 7, 1986

from federal government days.

MR. PARIKH: And that is where the confusion---

MR. ARMSTRONG: I think there is a bit of confusion.

MR. PARIKH: Yes, I meant that I know about Mr. Gray, Herb Gray, and Leo Gray was a prominent person, because Herb Gray was a prominent person, in my eyes, and Leo Gray, I understand, is a brother. I may be wrong; I don't know them personally.

MR. POPE: How do you know he is a brother?

MR. PARIKH: Somebody told me.

MR. POPE: Who?

MR. PARIKH: Mr. Maruzo.

MR. POPE: When was that?

MR. PARIKH: This was about the time that I wrote that first review of Wyda, which was September 9th.

MR. POPE: Yes, that is what I thought you said, and the reason I wanted to ask you that specific question, was, because in your response to a reference to "prominent people" in the Wyda application, you started talking about Mr. Gray, who we had linked to the Cumberland Group. So now we are totally confused; is Mr. Gray involved with Wyda, as well?

I mean, those are your words. Counsel, if I am wrong in what I have just said, correct the record.

MR. PARIKH: Well, I could just repeat what I said, what I think I said.

MR. ARMSTRONG: All right, try it again.

MR. PARIKH: I was asked a question by Mr. Bell, to explain that paragraph two, item 'A' of my September 9th memorandum.

MR. POPE: Yes?

MR. PARIKH: In my opinion, this paragraph has some fact and some speculation. The fact was that our president, Mr. Blakeley, wanted me to review this assessment--he wanted to review this assessment with Peter Barnes, and he wanted me to keep him informed regarding the review.

July 7, 1986

The fact is that I kept Mr. Blakeley informed about it, which is not a normal practice for every proposal that comes in. Everything I did on this, you will see Mr. Blakeley's name on it; all my memorandums had a copy to Mr. Blakeley.

The speculation is in the sentence starting, "apparently", and I underline the word "apparently", that, "this company is backed by prominent people", and this was not a complete investigation, on my part. I listened to one of my colleagues, who told me about it, and his name happened to be Mr. Bruno Maruzo, and who also gets a copy of this memorandum.

"Prominent people" that were mentioned to me was a gentleman called Mr. Leo Gray.

MR. ARMSTRONG: I am not sure if I can be of assistance; I think what Mr. Parikh is saying is that he understood there were prominent people backing this company, and I think he is speculating as to who they were.

MR. POPE: Well, let's put it this way; you were told that Leo Gray was backing this company, and you know that Leo Gray was the brother of Herb Gray, and Herb Gray used to be your boss man, whom you have a great deal of respect for in the federal government level; isn't that true?

MR. ARMSTRONG: First of all, without meaning any disrespect to Mr. Herb Gray, do you adopt the fact that you have a great deal of respect for Mr. Herb Gray?

MR. PARIKH: I was a civil servant in the federal government, and I kept away from politics. But, I read Mr. Gray's name in the paper every other day.

MR. ARMSTRONG: I won't ask you, then, if that was fact or fiction. We will just leave it at that.

MR. POPE: I think his earlier words render my comments appropriate, but we will leave that for the transcript to decide.

Other than what your solicitor says may be editorializing on my part, isn't that the information you had?

MR. ARMSTRONG: Do you understand what Mr. Pope is asking?

MR. PARIKH: I do not understand the question.

THE VICE-CHAIRMAN: Would you speak up, Mr. Pope?

July 7, 1986

MR. POPE: When you wrote this memo, you had been advised or understood Mr. Leo Gray was involved with Wyda; you knew that Leo Gray was a brother of Herb Gray; and you knew what Herb Gray's position was with the federal government.

MR. PARIKH: Of this, I am not certain, but I know that Leo Gray was involved with Wyda. I would state that Leo Gray was a prominent person, who was backing the project, financing it.

MR. ARMSTRONG: But you said you "thought" was backing it.

MR. PARIKH: Yes, who I thought, and as I said, I did, you know, speculate on that. I didn't check it out; I took my colleague's word for it.

MR. POPE: Well, so far, we have Mr. Maruzo involved, in a way that he did not indicate in his testimony, and we have Mr. Blakeley involved, in a way that he didn't indicate in his testimony, and you are saying that everything you did, with respect to this application, you communicated with Mr. Blakeley, and he got copies of it?

MR. ARMSTRONG: Well, to clarify, the memos that appear in the book are all copied to Mr. Blakeley. I think that is what Mr. Parikh is saying.

MR. PARIKH: That is right, everything I did, a copy was made for Mr. Blakeley, all of my four or five memos.

MR. POPE: Yes, and that was not usual?

MR. PARIKH: That is not usual.

MR. POPE: Yes. So, this was an unusual situation, in which Mr. Blakeley, did he ask you to keep informed--to be kept informed?

MR. PARIKH: Yes, that is a fact.

MR. POPE: Yes, and this was unusual?

MR. PARIKH: Yes, because you have got thousands of proposals, literally.

MR. POPE: Okay. What other "prominent people" are backing this proposal?

MR. PARIKH: When I meant prominent people, I said

July 7, 1986

to Mr. Bell, "Those prominent financiers", because one of our problems with Wyda, or any proposal that comes to us, is that after we plugged in our money, they go bankrupt, and so we look for people who have lots of money.

MR. POPE: And what other prominent people?

MR. PARIKH: That is what I meant, "prominent financiers".

MR. POPE: You make a statement that, "Apparently this company is backed by prominent people", and you now clarify that to mean "financiers". Can you give me any names of people who you were told were backing this company, other than Mr. Leo Gray?

MR. ARMSTRONG: Do not guess. If you don't know. say so.

MR. PARIKH: I do not know. That is why I used the word "apparently". You can see, when I make a statement of fact, I make a very--distinction between facts and inferences in my memos, because people can read into them, and my colleagues, particularly. So, whenever I am sure of something, I make a factual statement.

MR. POPE: What were they supposed to read into the statement, "Apparently this company is backed by prominent people"; what were they supposed to read into that?

MR. PARIKH: That the bossman is particularly interested in this project.

MR. POPE: Okay.

MR. PARIKH: That is why he wanted to talk me, otherwise, you know, we don't talk to each other, normally. Just like I never talked to the other Mr. Gray; he was too high up.

MR. POPE: Did you receive any communication from any sources, anywhere in the world, with respect to this application, whilst you were preparing the memo dated September 9, 1985?

MR. PARIKH: No, sir.

MR. POPE: So, this statement is solely based on a conversation with Mr. Maruzo?

MR. PARIKH: That is right.

July 7, 1986

MR. POPE: And what is there about Mr. Maruzo which would lead you to believe, having spent ten years dealing with prominent financial people in the federal government, what is there about Mr. Maruzo's opinion that would be significant enough, without any specific references to any specific individuals, to find its way into this analysis?

MR. ARMSTRONG: Just take your time.

MR. PARIKH: Just to give you a little background, I do not know as much about the Toronto milieu as I did know about the Ottawa milieu, and Mr. Maruzo, as I understand, is a person from Toronto, and he what we call, a "hi-tech" person, who knows about people who are interested in hi-tech, and people who are financing high technology, so I just took his word for it.

And that is why I did the word, "apparently", because I was not sure of my--it was a speculation on my part.

MR. POPE: What was Mr. Maruzo's role at this particular point in time, in the application?

MR. PARIKH: Mr. Maruzo is a technology person, and his job was to assist me, or any of the other officers of IDEA Corporation to evaluate the technology.

MR. POPE: So, what would his knowledge be of financial people?

MR. PARIKH: A little more than mine, because he just happens to come from Toronto. I can talk about people in Ottawa; I can't talk about people in Toronto with some confidence.

MR. ARMSTRONG: Oh, that is not relevant.

MR. POPE: You never dealt with Toronto people in your ten years with the federal ministry?

MR. PARIKH: Not Toronto financiers.

MR. POPE: You were doing the financial analysis, were you not?

MR. PARIKH: In Ottawa?

MR. POPE: No, here, with respect to this application,

July 7, 1986

you were doing financial analysis?

MR. PARIKH: On this one, yes, I was.

MR. POPE: And you were doing financial analyses in Ottawa?

MR. PARIKH: No, I was a management consultant.

MR. ARMSTRONG: As well, I think to be strictly accurate, as you have heard, I mean, financial analysis was also done in conjunction with Mr. Logan.

MR. POPE: Financial analysis in conjunction with Mr. Logan, then?

MR. PARIKH: Mr. Logan was the vice-president in charge of this Innovations Group, and this file, even though it started in the other group, ended up there. So, I was doing everything in consultation with Mr. Logan.

MR. POPE: But your specific responsibilities were to analyze the financial package?

MR. PARIKH: No, I was responsible for this project, right from day one. I was the project manager, and that means my job was to look at the project, and go through various screening processes, and decide whether to continue or to drop it.

MR. POPE: Why wouldn't you talk to Mr. Caplan, who was held out to be the vice-president of Finance and Administration, with respect to whether or not the project was backed by "prominent people"?

MR. PARIKH: That is a good question. September 9th was my first cut--what we call the first, rough cut, before anything is done, on any proposal, and so this September 9th document was written up by me, based on what I digested out of the Wyda proposal that came to us, on August the 12th. I made no contact with anybody, to write this up. The only contact that I had, was with Mr. Bruno Maruzo, whom I asked because I depended on him, about the technology aspect of the proposal.

There is nothing in this September 9th memo which is not--if you really spend time, you will find every word of it written somewhere in Wyda's own proposal. There is no specific input by me, except raising the problems and issues under item seven, and item six, on "Competition".

July 7, 1986

MR. POPE: Who told you that Peter Barnes was going to review this assessment with Mr. Blakeley?

MR. PARIKH: Mr. Harold Blakeley told me that he wanted to review this assessment with Mr. Peter Barnes.

MR. ARMSTRONG: Directly?

MR. PARIKH: Yes, he told me that. That is why I put it down there.

MR. POPE: Mr. Blakeley directly told you that?

MR. PARIKH: Yes.

MR. POPE: So, it wasn't Mr. Maruzo that told you about that part of the---

MR. PARIKH: No, Mr. Maruzo only told me that it was backed by prominent people. Maybe I should have a full stop there, and then start another sentence, and not have this "and". My English is not the best.

MR. WILDMAN: It sounds okay to me.

MR. PARIKH: Well, it is confusing, you know, to some people.

MR. POPE: Were you involved in analyzing the refinancing, in the spring of '86, just prior to closing?

MR. PARIKH: I mentioned to Mr. Bell that I was not involved in the proposal after the Board Meeting of March 6th, I think.

MR. POPE: Why not?

MR. PARIKH: Good question; I don't know.

MR. POPE: You spent four or five Sundays and Saturdays preparing this document. Who asked you to do that?

MR. PARIKH: My inner self. I am a dedicated public servant.

MR. POPE: And do you do that with every application, spend four or five Sundays---

MR. PARIKH: No, this was an exciting technology problem. This is the kind of thing that was a talented idea,

and---

MR. POPE: And, how many times in your career have you worked for four Saturdays and Sundays in a row?

MR. PARIKH: I am a "workaholic".

MR. POPE: Are you? How many other times---

MR. PARIKH: I was working last Sunday.

MR. POPE: How many times in your career have you worked four Saturdays and Sundays in a row, to prepare an application for the Board?

MR. PARIKH: Well, I shouldn't be bragging about myself, but I have done it many times, when it deserves, and this was a deserving proposal, in my opinion.

THE VICE-CHAIRMAN: The hour for adjournment is here. We have at least three more members of the committee who would like to ask you a few questions. Would you be able to reappear before the committee?

MR. PHILIP: Why don't we see how many questions we have, Mr. Chairman, and maybe with an extra 15 or 20 minutes--as I am fairly satisfied with the evidence I have heard from questions asked by the council.

THE VICE-CHAIRMAN: I put it to the committee that Mr. Epp, Mr. Wildman, and Mr. Ward are on the list at this point. Now, do we have unanimous consent to continue beyond 10:30? Do I assume that we have unanimous consent? Okay, Mr. Epp.

MR. EPP: Mr. Parikh, how long did you work for the federal civil service?

MR. PARIKH: Ten years.

MR. EPP: Did you know most of the cabinet ministers, federally?

MR. PARIKH: Could you repeat that question?

MR. EPP: Did you know most of the federal cabinet ministers? In the sense that you remember their names, when you were working in the federal civil service?

MR. PARIKH: Especially when I was on one of the projects

July 7, 1986

with them. I worked for the federal ministers, for projects. I was a management consultant.

MR. EPP: Were you always attached to the federal industry ministry?

MR. PARIKH: No, that was just the last two years of my work. Before that, for eight years, I was the management consultant for an organization called "Bureau of Management Consulting", which is a very special group that tries to solve federal government problems. They are difficult to solve.

MR. EPP: So, you only worked two years for the federal civil service?

MR. PARIKH: I worked two years for the Department of Industry, Trade and Commerce, the last two years of my--that is 1981/82, '81/82, '82/83, before I came to IDEA Corporation.

Before that, I worked for an organization called, "Bureau of Management Consulting", which is a part of the Department of Supply and Services, under which there is the Department of Audit. There is a group of special consultants like myself.

MR. EPP: As far as your superiors were concerned, people like Herb Gray and others, did you, as a practice, have respect for your superiors?

MR. PARIKH: As a rule, you know, surely. Those were tough jobs.

MR. EPP: And you respected the fact that they were able to accomplish a lot, and worked--they were probably "workaholics", like yourself?

MR. PARIKH: Oh, working, yes. A lot of them work harder than most people would imagine.

MR. ARMSTRONG: Without any disrespect, please answer what you know; don't speculate.

MR. EPP: So, it is not surprising that you have a lot of respect for Mr. Gray, as you have a lot of respect for people in the civil service, as well as politicians?

MR. PARIKH: That's right.

MR. EPP: Do you know who the present minister is, in MITT?

MR. PARIKH: Yes.

MR. EPP: Would it be accurate to say that you have a lot of respect for him, too?

MR. WILDMAN: You are getting on dangerous ground.

MR. PARIKH: I don't have the same interaction, because of my special status as a management consultant. There were projects that I actually did for the Deputy Ministers, and some for Ministers, and that is how I got to know about them.

But, in this case, the IDEA Corporation was first started at arm's length from the Ministry. So, I don't know much in---

MR. EPP: Mr. Parikh, you mentioned earlier that one of your jobs was to find maybe a half a dozen of other private sources for financing, Venture Capital, for the Wyda group?

MR. PARIKH: Yes.

MR. EPP: Is that something that--have you ever done it in another context for another company?

MR. PARIKH: Oh, yes, as a rule, we always--when the IDEA Corporation put money in a proposal, we always look for outside capital--what we call "corporate sponsor". In other words, we wanted to make sure that the project was being developed in reality, and was not some professor or inventor's pipe project; that even if it was to start with, that it would really get into real life, and the only way to do it, is to find somebody who is interested in real life, to put money into it. This is standard, normal operating procedure for IDEA Corporation.

MR. EPP: Okay, thanks very much.

THE VICE-CHAIRMAN: Thank you, Mr. Epp. Mr. Wildman?

MR. WILDMAN: Just a short question, Mr. Parikh. I have enjoyed your testimony, I must say.

MR. PARIKH: Thank you, sir.

MR. WILDMAN: Could you tell me where you are employed now?

MR. PARIKH: I am not employed.

MR. WILDMAN: Okay. Have you had discussions with

July 7, 1986

anyone in the provincial bureaucracy with regard to future employment?

MR. PARIKH: Yes, and my chance of getting employment are close to zero.

MR. ARMSTRONG: Careful, careful. Now don't prejudice yourself.

MR. PARIKH: Well, I would hope not, frankly.

MR. WILDMAN: The other question I have, is just, with regard to your memo that you have been asked questions about today, could you refresh my memory; what led you to believe that Mr. Blakeley wanted you to keep him up to date? Did he tell you that?

MR. PARIKH: He told me that.

MR. WILDMAN: And did he give you any reason why, or did he just say that he wanted to be kept up to date?

MR. PARIKH: He did not give me the reason.

MR. WILDMAN: And you said earlier you didn't ask your boss questions about that kind of thing?

MR. PARIKH: That is right.

MR. WILDMAN: All right, thank you.

THE VICE-CHAIRMAN: Mr. Ward was next.

MR. POLSINELLI: Could I ask questions on behalf of Mr. Ward, or on my own behalf?

THE VICE-CHAIRMAN: Sure.

MR. POLSINELLI: Since Mr. Ward is not here, I thought I would take the opportunity.

Mr. Parikh, are you familiar with the Cumberland Group?

MR. PARIKH: Yes.

MR. POLSINELLI: Are you familiar with Leo Gray's involvement with the Cumberland Group?

MR. PARIKH: Except for broad statement that he is involved, somehow; I don't know the details.

MR. POLSINELLI: When the Cumberland Group was applying for funding through the IDEA Corporation, were you, at that time, aware that Mr. Gray was involved with the Cumberland Group?

MR. ARMSTRONG: First of all, I think you should ask him if he was involved with that application.

MR. POLSINELLI: Were you involved with the application---

MR. ARMSTRONG: ---from the Cumberland Group?

MR. POLSINELLI: ---from the Cumberland Group?

MR. PARIKH: No.

MR. POLSINELLI: Did you hear of any aspects of that application through your involvement with the IDEAL Corporation? Was there talk about it, roaming around the corridors and the aisles?

MR. PARIKH: The only thing I know is that the application--there was an application. I only knew about it after it was turned down. I think it was turned down.

MR. POLSINELLI: Did you know that Leo Gray was involved with that application, as with the Cumberland Group? When you heard about it, did you hear of Leo Gray's involvement with the Cumberland Group?

MR. ARMSTRONG: If I may; did you know, or did you hear?

MR. PARIKH: I did not know.

MR. POLSINELLI: Okay, thank you.

THE VICE-CHAIRMAN: Okay, Mr. Polsinelli. Mr. Pope?

MR. POPE: How did you find out about the Cumberland Group application? Who told you?

MR. PARIKH: Mr. Maruzo.

MR. POPE: Why would he tell you?

MR. PARIKH: Because, one day, on one of the visits to Wyda, we went up there to meet Mr. Dobzinski. He wanted to go sometime earlier than me, so he said he was going next door to the Cumberland Group--I think there was offices of the Cumberland Group next door. I may be wrong.

July 7, 1986

MR. POPE: And in that context, he told you that the Cumberland Group had made an application, and had been turned down?

MR. PARIKH: I don't think he told me then. I think I just found out later on, much later on, that the Cumberland Group's application was turned down.

MR. POPE: Why would anyone tell you that the Cumberland Group's application had been turned down?

MR. PARIKH: We got regular reports, of all incoming proposals, what was their status, and which ones were accepted, and which ones were rejected.

MR. POPE: Written reports?

MR. PARIKH: Yes. You know, tabulation.

MR. POPE: And what kind of documents were these?

MR. PARIKH: Well, just so that everybody knew what was going on. I mean, we were getting so many proposals, that it was very difficult. People would call me up about something else, and then I would say, "Okay, for this proposal, there is a project officer, so please talk to him; I have nothing to do with it".

MR. POPE: And how often would these reports come out, these written reports?

MR. PARIKH: Monthly.

MR. POPE: Monthly. Now, could I ask you, if it is not too much; have you seen monthly reports on the status of proposals?

MR. BELL: No.

MR. POPE: Well, someone else is screening on a relevance basis, again.

How much money, sir, have you raised, from other sources for Venture Capital projects? Just a ballpark number in your three years.

MR. ARMSTRONG: Totally, in three years?

MR. POPE: Yes, not specifically to this one, or any other one specifically, but how much money have you raised, in total?

MR. PARIKH: Just a ballpark figure; about a million.

MR. POPE: \$1,000,000, in three years?

MR. ARMSTRONG: The total time at IDEA.

MR. POPE: The total time.

MR. PARIKH: Yes, that is not an easy job.

MR. POPE: No. How much of your time would you spend looking for other financing sources?

MR. PARIKH: As much time as I can find. For me, it was more important that the corporate sponsor and the outside sponsor invested with us, than us just plunking money down, in a project. That was my personal philosophy.

MR. POPE: I understand that, and over your three years, how many projects, in total, were you able to arrange this funding--you have told us \$1,000,000; how many projects, in total, did you raise funding for?

MR. ARMSTRONG: Can you count that, offhand?

MR. PARIKH: Just a few; I can't give you an exact number, but not many.

MR. POPE: No.

MR. PARIKH: Most of the projects are small in investments.

MR. POPE: I may have asked this, and if I do, I apologize, it is a little late; but, did you have meetings with anyone about your testimony here today? Did you advise anyone about your testimony, or did you communicate with anyone, about what testimony you would be giving?

MR. POPE: Mr. Armstrong talked to me this morning.

MR. ARMSTRONG: Excluding me.

MR. POPE: Excluding Mr. Armstrong.

MR. PARIKH: No, that is strictly between me and---

MR. POPE: Well, maybe you could explain something to me, then. It is the big binder, P-5. You had discussions with

July 7, 1986

the Ministry staff that you were testifying here today, and what you intended to say?

MR. ARMSTRONG: Excuse me, Mr. Pope, the first time Mr. Parikh was contacted about testifying here today, was yesterday, by my colleague, Mr. Philips. As far as I know, he was not contacted before that. Is that correct, about coming here, to this committee?

MR. PARIKH: Yes, I had no idea---

MR. POPE: That isn't the question I asked when Mr. Parikh denied that he had ever discussed his testimony or his appearance here with anybody. Obviously, he did, according to P-5, or P-5 is wrong; which is it?

MR. PARIKH: Excuse me, no, one minute; if somebody would read your question--I heard, at least, "Did I discuss with anybody today"---

MR. ARMSTRONG: No, you discussed it with me; that is fine.

MR. PARIKH: That is what I heard. This is a true record of what I told Mr. Mark Larratt Smith.

MR. POPE: I have no further questions.

MR. ARMSTRONG: I don't regard that as discussing his testimony, and I don't think Mr. Parikh does, but we will take that for---

MR. PARIKH: Mark Larratt Smith is a Deputy-Minister.

THE VICE-CHAIRMAN: Mark Larratt Smith we understand to be Chief of Staff in Mr. John Kruger's office; correct?

MR. PARIKH: That is right.

THE VICE-CHAIRMAN: That is your understanding.

MR. PARIKH: That is how I know him, because he has dealt with us since February 19, onward, after Mr. Kruger put the---

THE VICE-CHAIRMAN: Well, Mr. Pope, have you finished your questioning? Perhaps you could outline for the committee, then, the nature of your discussions with Mr. Larratt Smith from February 19th, on, just--in what context did this conversation take place?

MR. PARIKH: This conversation took place because of what I read in the papers, and I just felt that I should-- since I thought that I was the guy who actually looked at the merits of the proposal that came from Wyda, I wanted to--I wanted to be given a chance, like I did today, to make my point clear; that what I did was to look at the merits of the proposal from the technology, from the market assessment, and from those aspects.

THE VICE-CHAIRMAN: Okay. Mr. Wildman?

MR. PARIKH: And I stand by that statement.

MR. WILDMAN: Mr. Parikh, I want to give you the opportunity to clarify; could you tell us, did you initiate the telephone call to Mr. Larratt Smith?

MR. PARIKH: Yes, I called him.

MR. WILDMAN: And, why did you call him?

MR. PARIKH: I called him because, as I said, I wanted-- I did not know there was going to be--I never had such an experience before, and so I wanted to present my viewpoint, as you have allowed me to do this evening, and I wanted to register that--I was wanting to do that.

MR. WILDMAN: Okay, I understand what he is saying. So, it was your desire to make it clear that you had made a decision with regard to Wyda that was not influenced by the fact that Mr. Caplan was part of the Wyda group. Is that correct?

MR. PARIKH: That is right.

MR. ARMSTRONG: Well, if I may; except as part of the team that was presented in the proposal. I mean---

MR. WILDMAN: Yes, I understand that. That's right; his analysis of the--yes, that's right.

MR. PARIKH: In my work, it is based on the merits of the proposal that I recommended, and that is what I wanted to convey to Mr. ---

MR. WILDMAN: You initiated the telephone conversation?

MR. PARIKH: That is right.

MR. WILDMAN: And, I am trying to find out from you

July 7, 1986

exactly what your motivation was, in making this telephone call to Mr. Larratt Smith?

MR. PARIKH: My motivation was that as I read in the papers, that somebody who I never met, and will never meet again, was in trouble, and when I read in the papers there were people--reporters--saying that there was some connection, and what I wanted to tell Mr. Smith was that all those things could be there, I don't know, but my memos and my work, and my going to the Board for the Venture Summary was all because of my--I am a tough guy when I look at a proposal, and that was because I saw the merits of the proposal.

MR. WILDMAN: Yes. Now, can you tell me what the reaction was of the gentleman to whom you called, when you called?

MR. PARIKH: He thanked me, and he said, "Well, you know, what you are talking about is not an issue".

MR. WILDMAN: And in his memo here, he says that this matter will be dealt with by a Legislative Committee, and that it will be conducted on an independent basis.

MR. PARIKH: That's right.

MR. WILDMAN: Now, did he, in any way, discuss with you what kinds of questions you might be asked in this sort of forum, or what kinds of answers you might provide?

MR. PARIKH: No, the way he told me, I thought I would never be called by anybody. In fact, until last Sunday, I didn't--you know, nobody ever said anything to me, and in fact, I haven't got a piece of paper--I was telling John, I said, "Hey, without a piece of paper, I am not going to come, because I don't know who is real, here".

MR. WILDMAN: You are not the only one, Mr. Parikh, who feels that way.

I just want to know what the reaction was from Mr. Larratt Smith, when you called him?

MR. PARIKH: That is all there is; there is nothing more, and I didn't expect ever to be called after that.

MR. WILDMAN: Because he indicated---

MR. PARIKH: He told me the issue was not what I was raising.

MR. WILDMAN: ---the merits of the proposal.

MR. PARIKH: The issue was not the merits of the proposal; the issue was a conflict of interest, and the proceedings have to decide that, and I have got nothing to do with it, because I don't even know what the hell it is.

MR. WILDMAN: Okay, fair enough.

THE VICE-CHAIRMAN: Thank you, Mr. Wildman. We are just wondering, Mr. Parikh, if we are just a figment of your imagination.

I believe we have one final question from Mr. Ward.

MR. WARD: Just very briefly, you mentioned, when you talked about spending the weekend, and I just wanted to clearly establish this; you also said that that the specifics of the proposal, and the members of this committee have had some information with regards to what it was that Wyda was doing that interested the IDEA Corporation.

Is it fair to say that the project that was under consideration for financing is one of the most exciting that you had to deal with at IDEA, in terms of technology?

MR. PARIKH: It is the only one that came to IDEA that had this kind of potential for Canada, for Ontario.

MR. WARD: Is it the best you have ever seen?

MR. PARIKH: It is the best I have seen in my life.

MR. WARD: Okay. And, just one other point, and I just want to put this on the record, Mr. Chairman. This matter was referred to the committee on June the 16th. We hadn't even met to discuss what our process would be, and I really don't think--I don't see how it would be possible for you to discuss your testimony before the committee, when even the committee, at that point, didn't know how it was going to conduct its business, so---

THE VICE-CHAIRMAN: That was a very good question, Mr. Ward. Mr. Parikh, we thank you very much for appearing before the committee, and for the time and effort you have put into your testimony. We will not be requiring you any more at this time, and unless you are called again for a re-interview, which is not anticipated at this point.

MR. POPE: ---a point of privilege.

THE VICE-CHAIRMAN: A point of privilege, Mr. Pope.

July 7, 1986

MR. POPE: I think that I am entitled to production of the monthly reports of the status of the various applications. This is the first I have heard of it, and this will be the fifth witness now, that we have heard from IDEA Corporation, and I have specifically, again and again, went back to documentation.

MR. BELL: Well, the monthly reports as they relate to Wyda, Mr. Pope?

MR. POPE: The monthly reports, right from May of '85, right through to the wind-up.

MR. BELL: As they relate to Wyda?

MR. POPE: I am not going to restrict myself any more on relevance. I have had enough of that argument.

MR. POLSINELLI: When was the IDEA Corporation formed?

MR. PARIKH: The act was passed in '81. Our first president, Doctor St. John, was appointed in January of '83.

MR. POLSINELLI: Maybe we should go back to '81.

THE VICE-CHAIRMAN: Ms. Fish?

MS. FISH: Mr. Chairman, I think Mr. Pope's concern is directly relevant to the work of this committee. If there are regular monthly reports that indicate the status and monitor the progress of applications through the corporation, I think it bears directly upon the work of this committee; most particularly, insofar as they may mention--as they may mention Wyda, or any other company that is coming up in here. Now, that is not every single company that has ever been dealt with, but I would think it is extremely troubling, if there has been a request for documentation, and there is clearly a vehicle for informing the staff of the corporation about the status of proposals in the system, as it were, and that that material has not been filed.

THE VICE-CHAIRMAN: Why don't we do it this way; Mr. Armstrong, could you undertake to determine whether such documents exist and what the posture of your clients would be to the production of such documents?

MR. ARMSTRONG: I shall.

THE VICE-CHAIRMAN: And, present them to Mr. Bell, and Mr. Bell can then determine whether they are relevant to our discussions. Thank you.

MR. WARD: One point, Mr. Chairman; my understanding was

that Mr. Bell had reviewed the documents?

THE VICE-CHAIRMAN: Mr. Bell told the committee a short while ago that he had never seen the type of document that has been described.

MR. WARD: No, but my understanding was that the files were made available, and these didn't surface at all; is this the problem?

MR. BELL: They certainly were made available, and they were made available, and on relatively short notice, and I think it is going to be--why don't you leave it to Mr. Armstrong and I, as for the production and review of those documents; whenever that might be, knowing what your schedule is, for the next two days, but I will make every effort at the earliest possible moment to review whatever is there, with Mr. Armstrong.

MR. POPE: I think it is unfair to leave the impression that somehow, because I asked for documents, I am criticizing counsel for this committee, or counsel for the IDEA Corporation, or the employees.

MR. BELL: I don't take that you are, and I don't think Mr. Armstrong does.

MR. ARMSTRONG: No.

MR. BELL: I think it is a product of the schedule.

THE VICE-CHAIRMAN: All right, thank you. The committee stands adjourned until 10:00 a.m. tomorrow morning.

--- Upon adjourning at 11:05 p.m.

3 1761 11467119 1

